

*SEMINAR OF EXPERTS ON*

# *AND FOR HOUSING THE POOR*

*llberg, Sweden, 14-19 March 1983*



*ited Nations Centre for Human Settlements (Habitat) in Cooperation with  
e Ministry of the Interior, Finland and the Swedish Building Research Council*

01583





01583

GR100

**COMMUNITY HEALTH CELL**  
**826, V Main, 1 Block**  
**Koramangala**  
**Bangalore-560034**  
**India**

D5:1983

ISBN 91-540-3905-3

Swedish Council for Building Research, Stockholm, Sweden

Spångbergs Tryckerier AB, Stockholm 1983

# Contents

<b>I Preamble .....</b>	<b>7</b>
<b>II Recommendations .....</b>	<b>9</b>
<b>Annex A. Proceedings .....</b>	<b>31</b>
Background.....	31
Discussions .....	33
<b>Annex B. Overview of Land Issues .....</b>	<b>41</b>
<b>Annex C. Theme Papers .....</b>	<b>49</b>
I. Land Acquisition and Shelter for the Poor .....	49
II. Land Disposal Methods .....	61
III. Land Registration .....	71
IV. Institutions, Research and Education .....	78
<b>Annex D. List of Participants .....</b>	<b>87</b>
<b>Annex E. List of Documents .....</b>	<b>90</b>
<b>Annex F. Programme .....</b>	<b>92</b>
<b>Annex G. Recommendations of the United Nations Seminar of Experts on Building Codes and Regulations in Developing Countries, 1980 .....</b>	<b>94</b>



**Dr Arcot Ramachandran**  
**Executive Director**  
**United Nations Centre for Human Settlements (Habitat)**

Dear Dr Ramachandran,

On behalf of the participants in the United Nations Seminar of Experts on Land for Housing the Poor, the Swedish Council for Building Research and the Government of Finland, we have pleasure in submitting the report of the Seminar which was held in Tällberg, Sweden, from 14 to 19 March 1983. The seminar was attended by experts and observers from developed and developing countries, the World Bank and non-governmental organizations concerned with human settlements. We wish to express our appreciation for the collaboration of the United Nations Centre for Human Settlements (Habitat) with the Swedish Council for Building Research and the Government of Finland in organizing the Seminar.

The Seminar sought to identify ways in which national governments, with support from the international community, could implement some of the important recommendations contained in your report to the sixth session of the United Nations Commission for Human Settlements on "Land for Human Settlements". Thus, efforts were concentrated on examining how governments can speed up and increase the supply of land for housing the poor, and ensure that the poor receive secure tenure for their housing. The feeling was that these are the most urgent and intractable elements of the land issue and that many other elements will fall into place, if they can be dealt with.

As noted in the Preamble, the Seminar recommends "that governments concentrate on acquisition (temporary or permanent) or mobilization of land supplies, provision of basic services and delivery of land, rather than on the building of shelter structures". It was strongly felt that this was the only practical course in most developing countries where governmental resources have to be concentrated on the most effective efforts to be made. You will note also that the Seminar recommends "that every government take action to improve the land-tenure situation of the poor as a clear and concrete improvement in housing conditions prior to the International Year of Shelter for the Homeless in 1987". It was felt that this could be an important element of national demonstration projects well within the capabilities of most governments.

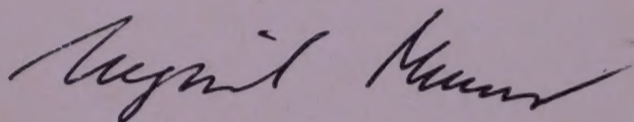
Under a framework of four topic headings, a total of 30 recommendations was approved and is presented in this report. Each recommendation represents a specific step which can be taken by governments towards meeting the land needs of the poor. This does not imply, however,

that each step is contingent on completing the previous one, so that, for instance, there are many actions on tenure which can be taken without completing a land policy or passing legislation on land acquisition.

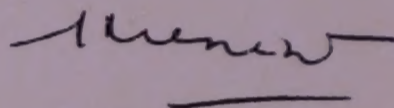
We hope that this report will be a useful contribution to the discussion on land problems at the sixth session of the United Nations Commission on Human Settlements. Although the proceedings are only available in English, we feel that translation into Spanish and French should receive serious consideration, in order to widen the potential audience. Since the governments of most developing countries have to cope with growing needs for low-income housing solutions, the Seminar recommendations will be relevant in all developing regions.

We wish to express our sincere thanks to you, Sir, for promoting the seminar. It was unanimously agreed to be a very timely and effective meeting.

Yours sincerely,



Ingrid Munro  
Chairman



Louis Menezes  
Co-chairman

# I Preamble

## The Seminar;

Recalling

the conclusions of Habitat: United Nations Conference on Human Settlements that -

"land, because of its unique nature and the crucial role it plays in human settlements, cannot be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market", and

"social justice, urban renewal and development, the provision of decent dwellings and healthy conditions for the people can only be achieved if land is used in the interest of society as a whole";

Aware

that the housing conditions of the poor have deteriorated over the past two decades, that 800 million people already live in absolute poverty and that at least twice as many poor people will have to be provided with housing by the end of the century;

Convinced

that the provision of secure tenure for land in adequate quantities, in suitable locations at affordable prices and on equitable terms is a fundamental requirement for clearing the backlog of housing demand for the poor and meeting the rapidly growing need to house new poor families, particularly in urban areas;

Believing

that the problem can be solved if,

- (i) Governments marshal the political will to carry out the necessary measures;
- (ii) decisions are logically based on appropriate, accurate and timely information;
- (iii) programmes progress beyond the demonstration level and are formulated on a scale commensurate with need;
- (iv) commitments are made to train and deploy sufficient numbers of skilled personnel to execute programme activities; and
- (v) the poor are involved in designing and implementing projects to meet their shelter requirements;

#### Recognizing

that the Governments of developing countries can only meet shelter needs by mobilizing all relevant national resources, including the strength and capacity of the people themselves;

#### Concerned

that sufficient attention is not being given to practical problem-solving mechanisms, building on known experience, which can be introduced progressively even in the absence of detailed policies and comprehensive institutional arrangements;

#### Emphasizing

that there must be maximum utilization and adaptation of informal processes which now cater for the great bulk of land-seeking poor households; and

#### Urging

that Governments and the international community identify and concentrate on strategic priority actions to create institutions, devise programmes and simplify decision-making and procedures for land delivery to the poor;

#### Recommends

that Governments concentrate on (i) acquisition (temporary or permanent) or mobilization of land supplies, (ii) provision of basic infrastructure and (iii) delivery of land, rather than on the building of shelter structures;

#### Recommends

that an important objective should be to involve the poor at all levels of decision-making and implementation in housing programmes, and to ensure continuous feedback to and modification of procedures to keep abreast of changing needs and conditions; and

#### Recommends also

that every Government take action to improve the land-tenure situation of the poor as a demonstration of clear and concrete improvement in housing conditions prior to the International Year of Shelter for the Homeless in 1987, with the goal of meeting the land requirements of most of the poor by the year 2000.

## II Recommendations

### Introduction

Adequate information on the housing conditions of the urban poor is extremely difficult to find. Generally, data collection is fragmentary and unreliable, and statistics are often suppressed or manipulated for political reasons. The best estimates are only based on limited surveys and must be taken as little more than order-of-magnitude extrapolations. Nevertheless, there is ample evidence that the scale of the low-income urban housing problem is immense, and that the housing conditions of the poor are worsening. The demand for more precise data is usually only a delaying tactic, when all the efforts that could possibly be made will hardly have an appreciable impact in the short term. What is needed is to adopt logical policies and to institute programmes on the largest manageable scale, in the hope of stabilizing the situation immediately and refining and expanding the programmes as they proceed. When the machinery is in place and activated, there will be time to reflect on the niceties of census-taking so often used as an excuse for inaction.

The World Bank has estimated that 800 million people in the world live in poverty, meaning that they have insufficient resources to meet even minimal needs of food, shelter and clothing. Most of these people, of course, live in developing countries, and most of them are rural. However, a significant number are urban dwellers, and the urban proportion is rising rapidly. Furthermore, urban households face financial and institutional problems which greatly increase the severity of the housing problem for the urban poor. Probably, many urban households above the statistical line of absolute poverty actually live in worse housing conditions than many rural households with lower incomes.

In Manila, close to 2 million people live in squatter settlements, and, in Delhi, about 1.5 million people live in squatter settlements, illegal subdivisions and temporary camps. In Guayaquil, a smaller city than Manila and Delhi, it is estimated that 60 per cent of the population lives in shanty towns. The problems of squatter settlements and illegal housing are not confined to any one region or any one size of urban area.

In Bombay, three-quarters of urban households lived in one-room huts and tenements a decade ago, and the situation has certainly not improved since then. About 3.5 million people live in squatter settlements and substandard accommodation or are homeless. At the same time, it is estimated that Bombay has 20,000 hectares of surplus land - almost 10 times the amount that would be needed to house the poor population.

In Manila, 64 per cent of the metropolitan area was still open space in 1973, and, in Bangkok, nearly 40 per cent of the land in the urban region is either undeveloped or agricultural. It seems, therefore, that absolute quantities of land are rarely the problem. The breakdown is in the system of delivering this land to the poor on terms which makes it legally accessible.

The breakdown is evidenced by the fact that 50 per cent of the residents of Mexico City live in illegal settlements, often on unsuitable sites and with no public services. Such illegal settlements are often highly profitable ventures for entrepreneurs, and there is evidence that land monopolization is becoming a growing feature of large cities in developing countries, as large investors look for quick speculative gains in urban fringe land. The problems of land and housing availability for the poor have already reached the crisis point.

The reason for the urban housing crisis in most developing countries is that urban land markets exclude the poor majority from obtaining a legal house site with basic services and suitable access to income-earning possibilities. Poor urban households are increasingly forced to go outside formal systems and obtain housing land on illegally occupied or illegally subdivided property.

In doing so, they often occupy land ill-suited to housing - building over swamps, beside railway lines or on unstable hillsides. They do this because such land usually has low commercial potential, and they feel they are reasonably safe from forcible eviction. They receive little support from public authorities in terms of infrastructure, community services and shelter credit, and, because of their illegal or uncertain status, they are discouraged from investing in housing improvement.

In seeking to deal with this problem, Governments are faced with four factors which are difficult to reconcile:

- a) the cheapest legal house or housing lot in the open market is too expensive for a large proportion of urban households;
- b) Governments are unable or unwilling to adopt a continuous process of land acquisition and disposition on a scale which matches the needs of households excluded from the formal market;
- c) Governments are unable to acquire land at a price which would allow the development of even minimally serviced sites at a cost affordable by the poor;
- d) Many urban households lack stable employment and, hence, have such low and uncertain incomes that they cannot conform to conventional land-purchase requirements, even for the cheapest subsidized lots.

There are mechanisms for overcoming these difficulties, but, so far, Government commitment to the necessary actions has been lacking. Without strong official will to improve housing conditions for the poor and an understanding of the key role of public intervention in the land-delivery process, no impact can be made on the problem. The most fundamental change is that the emphasis of public policy

must shift from the housing-construction process to the land-delivery process, so that Governments take responsibility for providing secure land and affordable infrastructure, and individual household or community groups take responsibility for building the shelter structure.

The recommendations which follow deal with the problems of land access and land tenure for the poor in third-world cities. However, it is recognized that the scale of this problem is in some way related to the land requirements of the rural poor in developing countries. These needs have been fully covered in the recommendations of the World Conference on Agrarian Reform and Rural Development and need not be reiterated here. However, it is important that there be consistency in policy and programmes for dealing with urban and rural land needs.

It is also important that locational decisions on land for low-income housing be related to overall patterns of urban development. The price of land is only one element of housing cost: the cost of transportation to place of employment, school, health facilities etc. is also of crucial concern to the poor. An offer of land at a low price is of no benefit to the poor, if it is offset by increased transportation costs because of the land's remote location. It is, therefore, inherent in all the following recommendations that the land to be acquired, developed, disposed of and administered for the benefit of the poor should be appropriately located and serviced land.

**COMMUNITY HEALTH CELL**  
**47/1, (First Floor) St. Marks Road**  
**BANGALORE - 560 001**

01583

## Overall Recommendations

### 0.1 Land for Housing the Poor

(a) Governments have rarely accepted that there is a national obligation to support the provision of shelter for every citizen. Even where there is a nominal obligation, the political will to take the necessary actions has been absent. There has been a general assumption that the national interest can be met without direct intervention in the housing sector.

(b) GOVERNMENTS MUST DEMONSTRATE COMMITMENT TO PROVIDING AN ADEQUATE SUPPLY OF HOUSING LAND, SECURITY OF TENURE AND BASIC SERVICES FOR THE POOR, WHERE EXISTING SYSTEMS HAVE FAILED TO MEET NEED.

(c) A demonstrated commitment requires as a minimum:

- (i) inclusion of housing as a subject in the political programmes of Government;
- (ii) incorporation of housing as a sector in the national development plan;
- (iii) budgeting of funds sufficient for the implementation of a housing policy geared to meet all needs.

### 0.2 Land Policy and Programmes

(a) The Governments of most developing countries have adopted a laissez-faire policy on housing and, particularly, on housing for the poor. Where there is an articulated policy, it usually calls for the provision of conventional housing structures for the entire population, regardless of financial means. Programmes of conventional housing construction have been consistently ineffective because of their financial incoherency, and laissez-faire policies have led to the almost total breakdown of the formal housing system, manifested in the rapidly growing illegal settlements of most large cities. In order to deal with the housing crisis, Governments must intervene in the production system at the point where public action can be most decisive, which is where land is being brought onto the market and transferred to housebuilders.

(b) GOVERNMENTS SHOULD ADOPT OVERALL LAND POLICIES AND PROGRAMMES, WITH SPECIAL EMPHASIS ON DISTRIBUTION OF AFFORDABLE LAND FOR HOUSING THE POOR.

- (c) In preparing an implementable policy and programme:
- (i) accurate forecasts must be made of future households and their affordable housing expenditures;
  - (ii) projections must be made of the distribution of household numbers and income-groups in the rural areas and settlements of the country;
  - (iii) calculations must be made of the quantity of land required to house population expansion and population relocation in local administration areas;
  - (iv) estimates must be made of capital-investment and cash-flow requirements for acquisition, development and disposition of land;
  - (v) mechanisms should be devised to provide short-term bridging finance and long-term purchasing finance in necessary amounts on sustainable terms;
  - (vi) provision should be made to develop the necessary technical and administrative capacities to carry out the policy.

### 0.3 Human Settlements Policy

(a) The role of human settlements planning is crucial in providing a framework for land development and management activities. However, elitist and unrealistic approaches to planning have resulted in consistent plan failures in developing countries. Pragmatic solutions are needed to make planning credible to decision-makers and the mass of the people. Plans should be based on broad and flexible frameworks which rely principally on the evaluation of options and the establishment of decision-making criteria.

(b) GOVERNMENTS SHOULD PLAN AND MANAGE THE GROWTH OF URBAN SETTLEMENTS IN SUCH A WAY THAT APPROPRIATELY LOCATED AND SERVICED LAND IS PROVIDED FOR MEETING THE POOR'S HOUSING NEEDS IN ACCORDANCE WITH THEIR PRIORITIES AND RESOURCES.

(c) Selection of development sites within settlements should be based on considerations of:

- (i) proximity to employment centres or the opportunity to establish employment-generating activities on the site;
- (ii) ease of access by foot, non-motorized transport or public transportation to centres of commercial and community activities;
- (iii) simplicity of connection to infrastructure networks for water, sewage disposal, power etc;
- (iv) potential for accommodating cross-subsidizing high-value activities as an integral project element.

## Recommendations: Theme I

### 1.1 Public Land Acquisition for the Poor

(a) A very large proportion of new housing for the poor in Third World cities is built on illegally occupied or subdivided land, as a result of inadequate supply of legal and affordable sites. The fact that so many people have to go outside the law to obtain land for housing is also the reason why the physical growth of cities has been haphazard.

(b) PUBLIC LAND ACQUISITION, BY EXPROPRIATION IF NECESSARY, SHOULD BE USED TO INCREASE THE SUPPLY OF LEGALLY AVAILABLE LAND AFFORDABLE BY THE POOR.

(c) Note should be taken of the following:

- (i) in acquiring land for low-income housing, public authorities must pay special attention to the need for the poor to have access to employment possibilities or other income sources;
- (ii) in those nations where most or all of the land is already in municipal ownership or is nationalized, the problem of acquiring ownership does not arise;
- (iii) in market economies, programmes of public acquisition of land in advance of need, such as by land banking, can over time increase public authorities' control of city growth, increase their influence over land prices and discourage the formation of informal settlements.

### 1.2 Public Land Acquisition and Informal Settlements

(a) If Governments cannot secure tenure in informal settlements by acting as intermediary between squatters and landowner(s), they should acquire the land themselves for this purpose. Indirect intervention has the advantage that it economizes on the commitment of capital, but is dependent on the ability of squatters or tenants to raise the necessary financing. Where direct purchase is required, rapid turnover should be aimed at, so that cost-recovery can be speedy.

(b) IN EXISTING INFORMAL SETTLEMENTS, PUBLIC LAND ACQUISITION COULD BE USED TO TRANSFER SECURE TENURE TO THE INHABITANTS.

(c) This implies that:

- (i) Government agencies could act formally or informally to persuade landowners to reach suitable agreements with occupiers;
- (ii) a formal power of expropriation should be available, as a factor in negotiation and for use as a last resort;
- (iii) nevertheless, for some informal settlements, built on dangerous or unhealthy land - on unstable hill-sides, over swamps or in flood plains - eventual relocation must be envisaged.

### 1.3 Legislation for Public Acquisition

(a) Where private land markets prevail, a balance must be struck between the rights of the State and the rights of individuals. There should be clear definition of public rights to acquire, use and develop land for public purposes or in the public interest and of individuals' rights to secure tenure and to sell what has been legally built or developed on the land at individuals' expense.

(b) GOVERNMENTS MUST ENSURE THAT LEGISLATION EXISTS TO AUTHORIZE PUBLIC ACQUISITION OF LAND FOR HOUSING AND TO DEFINE VOLUNTARY AND COMPULSORY ACQUISITION PROCEDURES.

(c) To ensure that land can be obtained for low-income housing, legislation should be:

- (i) clear and unambiguous on public acquisition rights;
- (ii) implementable without long delays;
- (iii) derived with due respect for each culture's or society's traditional or prevalent form of tenure.

### 1.4 Compensation for Public Acquisition

(a) Urban land value is derived from public and community investments and decisions on the one hand and from land owners' and land-users' development of that land on the other. While planned public investments can increase land values in nations or cities where land is mostly in private ownership, it is landowners who usually receive this increment. Public acquisition of land in suitable locations for low-income housing and on a scale to approach needs can never be possible unless public authorities can acquire land at a price related to the owners' or users' investment in developing that land or at 'existing use value' and not at a price reflecting existing or anticipated public or communal investments.

(b) IN ACQUIRING LAND, PUBLIC AUTHORITIES SHOULD ONLY PAY A PRICE COMMENSURATE WITH THE ORIGINAL INVESTMENT AND THE VALUE ACTUALLY CREATED BY THE OWNER OR OTHER RIGHT-HOLDER.

(c) Among ways of achieving this are:

- (i) setting compensation rates at land values which existed several years previously, although this demands comprehensive registration of property values by public authorities over time;
- (ii) freezing land prices in specified zones at their value on a certain date and allowing public agencies to acquire land in these zones at that value;
- (iii) use of taxes to recapture unearned increments.

### **1.5 Methods for Procuring Unused or Inefficiently Used Land**

(a) There are ways in which Governments can procure some land for low-income housing without compulsory acquisition. Although the areas to be obtained through these devices may not be great, full exploitation of all possible approaches could make a significant contribution.

(b) GOVERNMENTS SHOULD MAKE SPECIAL EFFORTS TO PROCURE UNUSED OR INEFFICIENTLY USED PUBLIC AND PRIVATE LAND IN APPROPRIATE LOCATIONS FOR HOUSING THE POOR.

(c) Among measures to be considered are:

- (i) ceilings on undeveloped urban land holdings which, if formulated without too many grounds for exemption and without too high a ceiling, can cut down the amount of undeveloped land and allow public acquisition of land where landholding ceilings are exceeded;
- (ii) a survey of land already owned or in the hands of public agencies or bodies, which may reveal amounts of land which are well suited and located for low-income residential development, and whose current use can be accommodated just as efficiently in less valuable locations;
- (iii) land pooling or readjustment which can be used as an alternative to compulsory acquisition and can ensure that public costs in regularizing plots and installing infrastructure and services are recouped, while part of the area is retained for low-income housing;
- (iv) special measures applied to vacant or undeveloped land which will make such land subject to expropriation or subject to special taxes.

### **1.6 Increasing Land Supply for Housing**

(a) There are innovative mechanisms, now being tried in certain countries, for making land and housing available to low-income groups through Government planning and licensing powers. For example, the lowering of standards can make it feasible for private developers to offer afford-

able land to the poor through the normal market. In other cases, multipurpose projects might be developed to include a proportion of low-income sites.

(b) GOVERNMENTS CAN OFFER INCENTIVES TO PRIVATE DEVELOPERS TO PROVIDE HOUSING SITES FOR THE POOR AS COMMERCIAL PROJECTS OR IN CONJUNCTION WITH OTHER DEVELOPMENTS.

(c) Such incentives could include:

- (i) setting performance standards for private-sector construction of serviced site/housing schemes at a level which will allow for lower unit costs;
- (ii) linking floor area ratios and building licences with requirements for the provision of serviced sites/houses for low-income groups;
- (iii) linking permission for industrial or business developments with a requirement for a minimum number of sites and houses for low-income groups.

### 1.7 Public Acquisition for Other Purposes

(a) Public land acquisition for purposes other than low-income shelter development is also essential. Provision of shelter sites alone is not sufficient to constitute an adequate housing solution. The concept of housing implies access to supporting infrastructure and services as an integral part of development.

(b) PUBLIC ACQUISITION SHOULD BE USED TO OBTAIN LAND FOR EMPLOYMENT SITES, INFRASTRUCTURE, COMMUNITY FACILITIES AND TRANSPORTATION NETWORKS RELATED TO HOUSING AREAS FOR THE POOR.

(c) For instance:

- (i) land acquisition can help improve low-income groups' access to employment by providing space, infrastructure and services for commercial and light industrial enterprises in or close to housing developments;
- (ii) land acquisition for and construction of new or improved transportation systems can increase the amount of land with easy access to central city or other employment centres;
- (iii) land acquisition should also be used to ensure sufficient public space for squares, childrens' play requirements and parks, and conservation of natural assets in the landscape.

### 1.8 Financial Implications of Public Acquisition

(a) The long-term goal is for each city's Government to have the technical and financial power and competence to acquire and develop land for the poor's housing needs, with infrastructure and services. In the short term, spe-

cialized national agencies might work with city Governments to meet immediate needs and develop city-level expertise. Sound management of capital and operating budgets and efficient land-marketing operations can make a vital contribution to the programme's financial feasibility.

(b) GOVERNMENTS CAN ECONOMIZE ON COSTS BY EFFICIENT THROUGH-PUT OF LAND AND CAN PROVIDE FUNDS FOR LAND PURCHASE BY JUDICIOUS USE OF TAX INSTRUMENTS AND DEFERRED AND ADJUSTED PAYMENTS.

(c) Among the ways in which funds can be raised to support land programmes and/or capital costs can be minimized are:

- (i) the use of taxes to raise money for public investment in land - including taxes on unearned increments in land value;
- (ii) the acquisition, servicing and disposition of land in a rolling programme which, if properly managed, can minimize the amount of capital tied up in the operation and maximize the land available for housing construction;
- (iii) payment to landowners or those with land-use rights through instalments over a number of years, so that the returns from increment in value of the land, once developed, can contribute to payments to former land-owners or users;
- (iv) the issuing of Government bonds and securities which can be used as part payment for land.

## Recommendations: Theme II

### 2.1 Secure Tenure and Informal Settlements

(a) In many developing countries, informal settlements supply the bulk of land for housing low-income and disadvantaged groups. In the absence of a legal alternative, these informal arrangements offer a variety of options within the means of the poor. Governments should build on the investments and commitments already made by the poor through the informal sector.

(b) GOVERNMENTS MUST RECOGNIZE TENURE RIGHTS IN INFORMAL SETTLEMENTS, PREVENT THEIR UNNECESSARY DESTRUCTION AND PROVIDE THEM WITH BASIC SERVICES.

(c) Strategies could include:

- (i) transfer of tenure to the settlers on public land occupied by squatters;
- (ii) establishment of legal rights for squatters who have occupied private land;
- (iii) schemes of credit, material and technical assistance to squatters to assist them in upgrading their shelter;
- (iv) regularization of illegal subdivisions.

### 2.2 Land Disposal and Tenure in Low-Income Settlements

(a) Provision of basic services alone does not improve land tenure. Infrastructure improvement or provision alone may not induce people to invest in housing and improve their environment. Land procured by the Government for housing should be disposed of to the poor with minimum delay and through the simplest possible procedures that provide security of tenure. Security of tenure is a strong incentive to people to build or improve and extend their shelter.

(b) GOVERNMENTS SHOULD DISPOSE OF LAND TO AND CONFER SECURITY OF TENURE ON ALL RESIDENTS OF LOW-INCOME SETTLEMENTS, IF NECESSARY THROUGH INCREMENTAL GRANTING OF RIGHTS.

(c) Land can be disposed of, giving security of tenure in low-income settlements in a number of ways, including:

- (i) rights of occupancy (which can include rights for tribally or communally held land);

- (ii) short-term and long-term leases;
- (iii) fully secured legal title, but with restricted resale rights;
- (iv) unrestricted legal title to a group but with restricted rights to individuals;
- (v) unrestricted legal title to individual proprietors;
- (vi) an incremental approach to secure tenure, providing basic land-survey and tenure to the many and improving it later (rather than elaborate land-survey and tenure rights to a few).

### 2.3 Sites-and-Services Programmes

(a) Many Governments are now experimenting with providing land to low-income groups in sites-and-services projects. This is a distinct shift from formal housing projects which face serious problems of inadequate numbers, shortage of funds and high management costs. There is now a wide acceptance of the need to provide basic services for many rather than formal housing for a few. To do so, projects can provide housing sites with basic services such as water, sanitation and access. Sometimes, utility walls or core housing units can be provided, but house construction is usually left to individuals or groups and is usually on a self-help basis. Sometimes critical inputs, such as credit, are offered by public agencies. However, these projects have not yet been taken up on a sufficiently large scale and have sometimes run into difficulties.

(b) A PRINCIPAL ELEMENT OF HOUSING POLICY SHOULD BE BOLD AND IMAGINATIVE SITES-AND-SERVICES PROGRAMMES ON AN EXPANDING SCALE WHICH WILL RAPIDLY MATCH NEEDS.

(c) In doing so, Governments should avoid the pitfalls and obstacles that have plagued recent projects and try to:

- (i) acquire sufficient land quickly;
- (ii) devise special managerial arrangements for implementation as well as maintenance;
- (iii) adopt standards which are the least expensive and are affordable;
- (iv) monitor the construction and allocation phases closely, to avoid time and cost overruns;
- (v) reach target groups through unconventional mechanisms;
- (vi) link plot allocation with essential inputs, such as easy credit for building materials to hasten the house-construction process;
- (vii) collect dues or charges on land, housing and services regularly and efficiently through unconventional arrangements if necessary;
- (viii) involve the community at all stages of the project, in order to get the best results and the highest level of satisfaction.

## 2.4 Appropriate Standards

(a) There is an urgent need in most developing countries to introduce standards appropriate to the needs and resources of low-income groups. The poor are often denied legal access to land/housing because prescribed standards for land, housing and infrastructure are unnecessarily high.

(b) GOVERNMENTS, IN ADDRESSING THE BASIC NEEDS OF THE POOR, SHOULD AIM TO ACHIEVE, WITHIN THE LIMITS OF AVAILABLE RESOURCES, IMPROVEMENT FOR THE LARGEST NUMBER OF THE LEAST ADVANTAGED.

(c) Building codes and regulations should provide for a graduated or a step-by-step improvement of the built environment, and Governments are urged to take full advantage of the recommendations of the United Nations Seminar of Experts on Building Codes and Regulations in Developing Countries (1980), the recommendations of which are annexed to this report.

## 2.5 Relevance of Industrial Country Experience

(a) The land and housing situation in industrialized and developing countries may not be comparable today. However, there may be important lessons to be learnt from some of the methods and systems followed in the industrialized countries, particularly at the time when they were industrializing. Where feasible, these approaches could be considered for emulation or adaptation.

(b) GOVERNMENTS MAY CONSIDER FOLLOWING THE EXPERIENCE OF SOME OF THE INDUSTRIALIZED COUNTRIES IN THE LAND AND HOUSING SECTORS.

(c) Favourable experience in some countries includes:

- (i) clear-cut and active land policies;
- (ii) decentralized responsibilities for implementing land policy;
- (iii) effective expropriation powers;
- (iv) establishment of pre-emption rights on land;
- (v) combining land-use regulations with such fiscal measures as taxation on vacant land and land transferred from non-urban to urban use;
- (vi) effective land use controls.

## Recommendations: Theme III

### 3.1 Legislation

(a) Many developing countries lack adequate legislation on land registration. It is recognized that present laws and regulations are very often inconsistent with the purpose for which land registration is used. There is often no attempt to adapt land-registration legislation to other forms of legislation. Often the type of legal force is not clear. Unless there is continuous and methodical updating of the registration information, the data will quickly cease to be useful, and the original effort in establishing the register will be wasted. Transfer information must include the price paid for the acquisition of the title or rights involved.

(b) GOVERNMENTS SHOULD ENACT EASILY UNDERSTOOD LAND-REGISTRATION LEGISLATION WHICH WILL PROVIDE FOR SYSTEM ESTABLISHMENT, MAINTENANCE AND IMPROVEMENT.

(c) This implies that:

- (i) Governments should co-ordinate new and existing legislation;
- (ii) legislation should be kept simple, to facilitate uniformity and updating;
- (iii) any rules that govern alterations to the legal situation of land plots should be clearly stated;
- (iv) procedures of appeal should be kept as simple as possible, to permit public accessibility (layman-jurisdiction and local committees);
- (v) the type of legal force should be indicated (important for title or deed registration);
- (vi) the procedures for notifying transfers must be simplified, so as to be readily understood by the whole population;
- (vii) there must be close review of the reliability of the recording system, so that full confidence is created in the accuracy of the register and the relevant map;
- (viii) there should be full access to the transaction recorded so that, for example, property valuation records can be kept up to date for land-tax purposes.

### 3.2 Multipurpose Registration Systems

(a) Existing land registration systems are rarely used for more than one purpose. However, it is essential for effective implementation of a land programme, that records be fully and consistently kept. This will allow harmonization of fiscal and land-development measures.

(b) GOVERNMENTS SHOULD ESTABLISH A MULTIPURPOSE LAND REGISTRATION SYSTEM CAPABLE OF BEING ADAPTED TO FUTURE CONDITIONS.

(c) This implies that:

- (i) the purposes of the land-registration system should be clearly identified and understood by all relevant parties, e g taxation, land reform, physical planning;
- (ii) one public agency should be appointed as the responsible party for land registration, to avoid duplicated effort and confusion;
- (iii) all land-registration operations should be co-ordinated with other relevant Government agencies and private organizations, e g revenue and planning authorities;
- (iv) land parcels should be assigned one code of identification to be used by all public and private agencies, organizations and institutions.

### 3.3 Land Registration Methods

(a) One of the crucial components of a land registration system is a register of properties and property ownership. Where there is no system of survey controls for identifying property boundaries and where significant legal uncertainties exist, the compilation of a register and maps will have to be a gradual process and should start in the areas of most urgently needed action. Such a register must also be adapted to recording alterations in property boundaries (subdivisions and consolidations), changes in ownership and the existence of restrictions and caveats.

(b) TO CONSERVE SCARCE RESOURCES, THE LAND REGISTRATION SYSTEM SHOULD BE INITIATED IN AREAS OF HIGH-PRIORITY NEED USING LOW-TECHNOLOGY METHODS.

(c) This implies that:

- (i) studies and investigations should be made to determine where the need for land registration is greatest, e g high-density squatter settlements;
- (ii) a reliable reference system (a geodetic network of control points) must be established to facilitate mapping;
- (iii) the land-registration system must be based upon appropriate, affordable technologies that are within the operational capability of existing land-management institutions;
- (iv) simple landmarks (e g boundary pegs) may be used initially for fixing boundaries.

### 3.4 Operation of the Land Register

(a) One of the reasons for introducing a systematic process of recording land titles, deeds and land transactions is to ensure speedy acknowledgement of ownership. This will expedite approval of mortgage loans and, thus, support the upgrading and consolidation process in low-income settlements. There should be provision for recording different degrees of title and deed interests, e g licence, lease, freehold.

(b) ESTABLISHMENT OF A PROPERTY REGISTRATION SYSTEM MUST BE ACCOMPANIED BY AUTHORITY TO ENFORCE NOTIFICATION OF PROPERTY TRANSACTIONS AND TO ISSUE CERTIFICATES OF TITLE OR DEED.

(c) This implies that:

- (i) the issuing of title or deed certificates should become a routine procedure, once technical requirements have been met;
- (ii) the charges for registering transactions and issuing certificates should be kept as low as possible, so as not to discriminate against the poor;
- (iii) transaction procedures should be simplified, so that the poor can participate in the market without having to involve professional legal advice.

### 3.5 Public Information on Registration

(a) In many developing countries the establishment of a land-registration system has failed because the responsible agencies have not supplied policy-makers, administrators, professional staff and the public with adequate information. This means that professionals have not understood the value they can derive from the system. Furthermore, the public at large has not appreciated the benefits of title protection provided by the system.

(b) GOVERNMENTS SHOULD PROMOTE A WIDE UNDERSTANDING OF LAND REGISTRATION SYSTEMS PARTICULARLY AMONGST POOR POTENTIAL BENEFICIARIES.

(c) This implies that studies should be made to determine the most appropriate means of disseminating information on the need for land registration systems, so that there will be likelihood of public acceptance of and understanding for the establishment of a land-registration system, especially in countries which have customary, tribal or family rights.

## Recommendations: Theme IV

### 4.1 Land Management Systems

(a) Many countries do not have workable institutional arrangements for allocating land to meet human-settlement needs. Where institutions have been established, they often perpetuate prevailing discriminatory practices. As a result, administrators, planners and land managers lack the tools to act on a scale and within a timeframe commensurate with needs.

(b) GOVERNMENTS SHOULD ESTABLISH LAND-MANAGEMENT SYSTEMS AND PROCEDURES WITH THE CAPACITY TO DELIVER SUFFICIENT QUANTITIES OF LAND TO THE POOR.

(c) This implies that:

- (i) institutions should have clear mandates and powers to meet the land needs of all population groups;
- (ii) emphasis should be placed on the co-ordination of institutional efforts, so as to avoid duplication and unsynchronized programmes;
- (iii) administrative processes should be simple, easy to introduce and understandable by all affected parties;
- (iv) procedures and records should meet minimal requirements immediately but be capable of upgrading to meet ultimate needs over time;
- (v) local-level arrangements should be preferred to centralized approaches.

### 4.2 Financial Systems

(a) Just as land policy should include provision for comprehensive management systems and procedures, it should have a matching financial system to deal with the fiscal aspects of providing housing for the poor. In principle, the financial system should be arranged to provide all the settlement's capital and operating costs by raising resources from landowners. The charges on landowners should be distributed according to ability to pay, and the investment and operating expenditures should be directed towards offsetting shortfalls in ability of low-income communities to pay for services and facilities.

(b) GOVERNMENTS SHOULD ESTABLISH COMPREHENSIVE FINANCIAL SYSTEMS AS PART OF LAND MANAGEMENT POLICIES, TO RAISE RESOURCES EFFICIENTLY AND APPLY THEM SO THAT THE POOR RECEIVE EQUITABLE BENEFITS.

(c) Some of the essential features of a viable financial system are:

- (i) property valuations should be accurate and up-to-date;
- (ii) rates and charges should be scaled progressively to increase obligations on owners of expensive properties and decrease obligations on owners of low-value properties;
- (iii) user-charges for services should be arranged to cross-subsidize low-value consumers by higher charges on high-value consumers.

#### 4.3 Reliability and Accountability

(a) Land-development and land-management activities are often hampered by corruption, disregard of the rights of minority groups and incompetent direction. Performance criteria have to be devised and equity targets have to be fixed, to measure achievements in this area. There should be feedback of performance evaluation, so as to introduce progressive improvements.

(b) PERFORMANCE OF LAND MANAGEMENT SYSTEMS SHOULD BE EQUITABLE AND RESPONSIVE TO CHANGING NEEDS.

(c) This implies that:

- (i) the law should be strictly enforced in the property system;
- (ii) there should be full accountability by the administrators of the system;
- (iii) land records and data should be freely accessible to any interested party.

#### 4.4 The Role of Local Authorities

(a) Local Governments can play a very important role in urban affairs, and their capacity to manage urban growth is critical to the shelter needs of the poor. Over the years, many municipalities in developing countries have lost much of their power, their revenues, their managerial competence and their credibility. This is unfortunate, and everything possible should be done to reverse this trend and restore local Governments to their former status.

(b) LOCAL GOVERNMENTS AND ADMINISTRATIONS SHOULD BE ESTABLISHED OR STRENGTHENED TO PLAY AN IMPORTANT ROLE IN LAND MANAGEMENT.

(c) Among the measures needed are:

- (i) a sound and buoyant revenue base;
- (ii) clear demarcation of functions and responsibilities, and powers commensurate with these;
- (iii) a full role in the land and housing market;
- (iv) a viable system of taxes on land property;
- (v) improved methods of tax collection;
- (iv) management systems for land, housing and services;
- (vii) active participation of people in municipal affairs;
- (viii) responsive and effective planning and development-control systems.

#### 4.5 People's Participation

(a) The communities and families in low-income settlements represent one of the strongest forces for change and improvement. Planning and implementation of land and infrastructure programmes must be regarded as a process by which communities can decide on and control the building of their own settlements. When communities participate as partners of Government in development programmes, there are noticeable qualitative differences in subsequent attitudes to maintenance and upkeep of community environment. Resulting cost-savings to Government can be considerable.

(b) GOVERNMENTS SHOULD RELY AS FAR AS POSSIBLE ON THE PARTICIPATION OF PEOPLE IN THE PLANNING, IMPROVEMENT AND MANAGEMENT OF SETTLEMENTS.

(c) Some important aspects of participatory development are:

- (i) internally developed community organizations should be recognized by Government, to give them some authority in dealing with community issues;
- (ii) communities should be given primary responsibility for resolving complex tenure problems;
- (iii) communities should advise on land-use and land-adjustment schemes;
- (iv) The Government should involve the community in any discussion of tenure transfer from property owners;
- (v) in relocation schemes, the community should have a role in selecting and laying out relocation sites.

#### 4.6 The Role of Co-operatives

(a) Co-operative groups are well suited to initiating and channelling community-development processes. Many of them have long experience of managing community-credit systems and have earned the confidence of community members.

Other business co-operatives can generate employment opportunities in the community and strengthen the group's financial base.

(b) GOVERNMENTS MUST ENCOURAGE COLLECTIVE EFFORTS OF THE PEOPLE INVOLVED IN LAND ACQUISITION, SAVINGS AND LOAN ARRANGEMENTS, CONSTRUCTION, EXECUTION, AND MANAGEMENT OF ASSETS AND SERVICES.

(c) Some of the areas in which land development can be supported by co-operatives are:

- (i) the co-operative can receive land title on behalf of the group and can deal with payment obligations;
- (ii) the co-operative can plan and subdivide community property and can ensure that individual rights are respected;
- (iii) the co-operative can arrange the installation of project infrastructure, relieving Government of financial obligation for the works;
- (iv) the co-operative can provide collateral for raising risk capital in support of community business activities.

#### 4.7 Training

(a) There are very few training programmes for land administrators, managers and registration personnel. Most courses designed for professionals and technicians are too academic and theoretical in approach, lacking the practical focus needed for tackling the problems of the poor. Little emphasis is being put on the training of field or subprofessional personnel, while the training institutions themselves lack necessary academic direction, manpower resources and teaching materials.

(b) GOVERNMENTS SHOULD PROVIDE FACILITIES FOR FORMAL AND INFORMAL TRAINING OF PERSONNEL AT ALL LEVELS.

(c) For the Governments of developing countries, this means that:

- (i) training programmes must suit the needs of top-level policy-makers, professionals, middle-rank administrators and technicians;
- (ii) training courses should be oriented to specific demands and not merely to general theoretical approaches;
- (iii) training institutions should direct their policies and energies to meeting the needs of the poor;
- (iv) emphasis should be placed on problem-oriented training including mid-career courses and short-term courses;
- (v) lower-level needs can be met efficiently by on-the-job training.

(d) For the industrialized countries and international agencies this implies lending support to:

- (i) the training of high-level manpower and researchers at university level, either locally or overseas;
- (ii) the development of national training institutions, especially by meeting their requirements for accommodation, equipment and transport;
- (iii) the preparation of relevant teaching materials, e g text-books, monographs, case studies and audio-visual materials.

#### 4.8 Research

(a) Inadequate research is being undertaken into land problems related to housing the poor. Research efforts are unco-ordinated and do not focus on the critical issues. Few resources are being devoted to the development of research capabilities and the support of relevant research programmes.

(b) GOVERNMENTS AND INTERNATIONAL AGENCIES SHOULD DEVELOP AND SUPPORT NATIONAL AND REGIONAL INSTITUTIONS FOR UNDERTAKING RESEARCH ON LAND ISSUES.

(c) Initially, research could focus on the following priority areas:

- (i) registration: preparing guidelines for land and property registration, documenting existing methods, preparing and executing pilot projects, monitoring results;
- (ii) tenure options: evaluating tenure systems already in use, developing innovative tenure systems suited to the needs of the poor, testing new methods and assessing costs and benefits, producing guidelines for implementation;
- (iii) market processes: monitoring land property markets and associated submarkets in which the poor operate, designing novel types of interventions, developing policies, pilot projects and monitoring mechanisms;
- (iv) betterment or recoupment: reviewing experience on recoupment of unearned increment, developing acceptable and testable methods, developing guidelines for international use.

(d) For the Governments of developing countries, this implies the identification of research problems and, where possible, the establishment of a national research facility with assistance from the industrialized countries and international agencies.

(e) For the industrialized countries and international agencies this implies that:

- (i) assistance should be given to the developing countries, so that they can develop regional networks of research facilities;

- (ii) UNCHS (Habitat) should prepare a catalogue or list of research institutions and land experts for dissemination among developing countries.

#### 4.9 Information

(a) Land-management experience is rarely sufficiently documented and disseminated to practitioners, not only within but also between countries. Information needs to be prepared and distributed in various forms to suit the needs of the users, ranging from technical journals to radio broadcasts and live demonstrations.

(b) GOVERNMENTS SHOULD SUPPORT SYSTEMATIC DOCUMENTATION AND DISSEMINATION OF INFORMATION ON LAND MANAGEMENT ISSUES.

(c) For developing countries, this means:

- (i) the co-ordination of dissemination measures with overall policies relating to the communication needs of the poor;
- (ii) the exchange of information between policy-makers, administrators and professionals in various countries.

(d) For the industrialized countries and international agencies, this involves:

- (i) assistance to developing countries in preparing or acquiring materials such as journals, technical papers, films, radio and video programmes, manuals, newsletters and posters;
- (ii) training of documentalists and communication specialists.

(e) For UNCHS (Habitat) this implies:

- (i) helping developing countries to obtain international assistance;
- (ii) formulating guidelines for dissemination programmes.

### Background

Throughout the world, the populations of developing countries are increasing at a rapid rate. Along with the overall growth of national populations, there has been a continuing shift in locational characteristics of population distribution. Urbanization is increasing, accompanied by a growing demand for urban employment, services and housing.

The formal process of expanding urban settlements and housing new residents has failed to keep pace with need in virtually every country of the developing world. The two main manifestations of this failure are the overcrowding of existing low-income residential areas and the establishment of informal and illegal popular settlements. The breakdown of shelter and infrastructure supply mechanisms has meant that poor and disadvantaged urban residents are facing deteriorating living conditions and exclusion from full participation in the benefits of economic improvements.

The conventional policy of developing-country Governments has been to proclaim the right of every household to a standard dwelling, usually based on developed country concepts of housing size and quality. However, the gap between needs and resources has been so great that public housing programmes have failed to meet more than a tiny fraction of the total requirement, and the gap is, in fact, widening instead of diminishing. At the same time, millions of low-income urban residents are providing their own shelter without official support and, often, in the face of official discouragement and obstruction.

It is abundantly clear that the practice of Government involvement in the shelter-construction industry has been a cardinal error and that the result has been to retard the production of shelter for the poor by diverting resources from investments which could have supported increased output. It is now recognized that efficient production of shelter calls for a rational division of responsibilities between private efforts which can build individual dwellings and public efforts which are uniquely capable of delivering the land and infrastructure needed for housing the great mass of people. Within this distribution of public/private responsibilities, the prime role of the public authorities must be to ensure an efficient flow of affordable land in appropriate locations and in quantities sufficient to meet the needs of the poor.

To deliver building plots to low-income households, some Government intervention in the development process is called for. The extent of this intervention and the devices for undertaking it will be unique to each country

and will depend on the socio-political situation, the economic conditions and the settlement pattern. However, intervention presupposes certain capacities of the system, without which intervention may actually worsen the situation rather than improve it.

First, there must be access to data. Such data would include information on land ownership, land values, land transactions and land use, including land in both private and public ownership. Secondly, there must be power to transfer property ownership by direct or indirect intervention. This means that Government must be able to exercise controls and incentives to deliver land to the poor and/or it must be able to acquire land as an intermediary, either temporarily or permanently. Thirdly, there must be an administrative capability to organize and manage a continuous throughput of buildable land in the quantities and at the prices needed. This calls both for entrepreneurial skill and social judgement. Fourthly, there must be financial mechanisms to provide the investment capital and operating funds to support the system. Since the aim should be to provide affordable land, the system should be ultimately self-sustaining, but this goal might not be achieved in the first decade, so that bridging money will certainly be called for.

The means of meeting these four fundamental requirements are discussed under the themes of the seminar, and recommendations are made on possible solutions. Certain of these recommendations are still theoretical, while others have been practically tested. Some recommendations will have a great impact, while others will have only a small effect. However, no set of recommendations can be applied globally: it is for each Government to select the combination of tools which will best meet its requirements.

### Discussion: Theme I

There are two crucial aspects to the problem of providing land for housing the poor - quantity and cost. The phenomenon of squatting and illegal subdivision of urban land in developing countries is mainly the result of the insufficient quantities of affordable land that are made available through formal processes. This causes competition between land submarkets in which the poor are inevitably the losers. Therefore, they are forced to turn to informal and illegal processes for accommodation and often manage to deal with the problem with great ingenuity and perception.

The first need is to establish a programme for acquiring, processing and delivering land in sufficient quantities to meet demand. Given that the demand will continue to be high until at least the end of the century, this implies that no temporary expedient will be adequate. There must be a permanent, institutionalized response which matches the scale of the requirements. This response will not be the same for every country and may encompass more than a single line of action in any country. Probably, several different mechanisms will be needed to cope with all the land submarkets.

Nevertheless, the fundamental need is for Governments to obtain a sufficient degree of command of the land-supply market to ensure a continuous throughput of well-located land accessible to the poor. The means for this may range from full nationalization at one end of the scale to manipulation by administrative and fiscal measures at the other. Probably, however, most countries will have to resort to some kind of direct Government acquisition of land interests, permanent or temporary, as an intermediary in the land-delivery process.

The second need is to undertake the accepted programme at a cost affordable by the country as a whole and by the poor client-group in particular. Generally, it can be taken that this excludes programmes reliant on single-time grants, soft-term credits and special preferential arrangements, as these will not be sustainable. Therefore, means will have to be found to minimize capital commitments or to pass on capital expenditure very quickly through revolving funding.

There are also two physical elements to the problem. First, there are the squatters and illegal residents already in place in the cities of developing countries whose position has to be regularized. It is generally accepted that wholesale removal of squatters is economically and socially costly and unmanageable, and that realistic solutions must envisage recognition and legalization of their

rights. In this instance, there is considerable scope for limiting Government involvement to an intermediary role in transferring tenure rights to the ultimate target group.

Probably, the more important element of the problem relates to the need to plan ahead for accommodation of the continuing flow of immigrants and the growing number of households formed as a result of natural increase in urban populations. It cannot be envisaged that a rational solution can wait for these new households to become squatters before their need is recognized. Therefore, Governments, through planning and management processes must designate and develop land in advance of need, so that orderly settlement and consolidation can take place.

Without a Government commitment to intervention in the land market, the situation will certainly worsen greatly in the near future. The informal processes which have provided the bulk of low-income accommodation are breaking down, as land markets become increasingly commercialized.

Where Governments wish to keep their intervention to the minimum, programmes will have to concentrate on manipulating the private market through fiscal measures, administrative controls and legal devices. These processes work most effectively in situations where there are well-developed financial and administrative institutions. However, most developing countries are unlikely to solve the problem without some programme of direct acquisition.

One of the great stumbling-blocks to an adequate programme of land distribution is the slowness of acquisition procedures and the cumbersome processes which have to be followed in expropriating private land, where this is necessary. In some cases, there is actually no authority for public acquisition of land to provide housing. It seems clear that one of the urgent needs is to establish new powers for quick possession of title, possibly divorcing the title-transfer action from any time-linkage with the compensation-payment action. Through such a device, land might be quickly developed and realized with only a limited demand for bridging capital.

Although meeting the scale of need will, for the most part, involve Government land acquisition and transfer, there are some devices which can contribute to a solution without compensated expropriation being involved. The extreme example would be nationalization, socialization, municipalization or similar procedure which would bring all land under public control and allow free allocation in accordance with perceived needs. In most market-economy and mixed-economy countries, such action will not be acceptable, but it may be possible to introduce land-ceiling measures which will bring some surplus land under Government control. The value of such a measure, which is strictly a one-time action, will depend on the extent and location of large-scale unutilized land holdings, and the extent to which the measure is implemented.

There may be some possibility that Governments can stimulate formation of co-operative groups to act as land agents. By lending to a co-operative and drawing on the co-operative's own savings, the Government may be able

to transfer land from original to ultimate owners with minimal public commitments of finance. Such an action does, however, seem to imply a fairly complicated and individualized administrative practice.

Broadly speaking, one of the requirements of a successful acquisition programme must be administrative simplicity. If land is to be delivered in the envisaged quantities, highly routinized and standardized measures will be called for. This would allow the programme to be implemented with minimal numbers of skilled staff - a desirable feature of any programme in developing countries.

The question of compensation is a vital one. It is highly unlikely that any acquisition programme can be workable unless compensation is minimized. There is general agreement that landowners should not receive any compensation for unearned increment, and this principle would go a considerable way towards overcoming financial difficulties. However, the separation of earned and unearned value may present some practical methodological problems which have to be resolved.

Other devices could include deferral of compensation payments through instalment arrangements or issuance of interest-bearing bonds. Effectively, this procedure forces the land-owner to finance the programme until the land has been disposed of and the realization of land sales can be used to cover the compensation costs. Another resource is the pool of unutilized Government land held by many agencies in developing countries which could be released for housing, if the priority need for housing the poor is accepted.

## Discussion: Theme II

Land disposition has two important aspects. The first aspect is the legal process of delivering tenure to the eventual plot-holders and the second aspect is the establishment of prices and purchase mechanisms. These two points are closely linked, and the price question is also closely linked to the system of acquisition adopted.

There is controversy over the relative merits of disposal through leasehold and freehold systems. The argument in favour of leasehold hinges largely on the ability of the Government to maintain continuing control over land use and revenues. In most developing countries, these advantages appear to be marginal, since few Governments are in a position to manage leasehold systems so as to realize the benefits. The counter-argument in favour of freehold emphasizes its simplicity as an administrative process to be managed by a land-disposition authority in a developing country. It also appears that Government can just as easily raise revenue under freehold as under leasehold systems.

The crucial requirement of land disposal is efficient delivery of adequate quantities of affordable property to the great number of poor households. Replicability demands that there be cost recovery as part of the process, otherwise the programme cannot be sustained. If there is any element of subsidy in the disposal price, it must be met from direct cross-subsidy or from a continuing general-revenue allocation which must be clearly identifiable and affordable in terms of central Government expenditures as a whole.

The question of subsidy is a delicate one. If land made available to the poor is much below market value, there will be a propensity to realize on the asset by selling out to a higher-income household. Legal restrictions are an ineffective bar to this practice which will always be a potential hazard as long as there is a land shortage. This means that a land-disposal programme for the poor must be framed in the context of a land-delivery solution for all submarkets.

There is support for a policy of preferred disposal to co-operative or corporate groups rather than individuals. It is suggested that the Government could economize on some development obligations in this way, by passing them on to the group. It is also argued that group discipline will ensure the best cost-recovery results. Actual experience in group responsibilities in some countries has not always been encouraging, because of defects in the methods used.

There is also an attractive argument in favour of a graduated tenure system for land disposal. Such a process might typically grant an initial one-year or two-year licence for construction of a temporary dwelling, to be converted to a longer and more secure tenure when there is evidence of improvement. The obvious incentive to upgrade property in order to obtain the most secure rights should result in the fastest consolidation taking place. The system does, however, depend on the property recipients' confidence in the impartiality of the system - a feature often lacking in many developing countries.

As long as there is insufficient land to meet demand, some allocation system will be called for, and, in the initial stages of a delivery programme, devising an acceptable procedure will be difficult. Allocation methods may be random or based on highly elaborated measures of worthiness. Whatever system is adopted, it must be perceived as just by all the participants.

In some instances, it is possible to dispose of property through traditional or customary tenure. However, given the rate at which customary procedures are becoming commercialized, the long-term prospects for a large measure of disposal through these methods may not be encouraging. Customary processes should be followed where they have merit, but a successful disposal programme may have to adopt some standardized conventional marketing procedures to cope with the administrative load.

One of the objectives of land disposition and development should be to create value. It is by the sharing of this created wealth that living conditions can be improved and human-settlement development financed.

### Discussion: Theme III

A methodical and reliable system of information on land ownership, land transactions, land value and land use is essential to guide decision-making on settlement development. This applies particularly when Government must mount a large-scale sustained programme of land acquisition and disposition, as will be required for housing the poor. The establishment of a suitable system is an urgently needed action in most developing countries.

The required system must be as simple as possible and capable of quick introduction. However, it should be upgradable over time, as the system develops. There are new technologies which can greatly assist in efficient management of the data bank, without requiring a large professional operating staff. The aim should be to tackle urgent needs with minimally trained staff rather than defer implementation until all professional skills are in place.

The basic feature of the system should be a register of property, ownership and transactions, and a relevant map. The procedures should be extremely simple, and the records should be open to the public, so that the poor can use the system without hindrance. It is crucial that confidence be built up in the timelines, reliability and honesty of the process. Otherwise, there will be a reluctance to submit registration information, and the system will fail.

Enabling legislation must obligate the recording of any land dealings. In the long run, the aim should be to register and map every property by voluntary application of the owner for title recognition. However, in the short term, registration should concentrate on the most urgent need which is to register urban properties and, particularly, residential properties occupied by the poor.

The register of transactions should be directly linked to the property-valuation and taxation system and to the property-acquisition system of the Government. Records of transaction prices are basic data for fixing taxable values and acquisition costs. Understatement of transaction prices will be discouraged by the possibility that the transaction price could become the expropriation price if the land is ripe for development: overstatement of transaction prices will be discouraged by fixing a registration fee based on value.

The main purpose of registering titles and deeds must be emphasized as providing security for the poor. Other uses may be important to planners and administrators, but the benefit to the disadvantaged population is paramount.

#### Discussion: Theme IV

Maximum use should be made of informal institutions which are already important participants in the housing-delivery system for the poor. The operation of informal processes should be examined, to see how they can be improved and to see how successful adaptations can be made for incorporation in formal processes. The role of people's organizations should be expanded and strengthened.

The formal institutions which have failed to meet land-access requirements of the poor should be examined, to identify changes which will make their activities more efficient and responsive than in the past. In particular, co-ordination mechanisms between organizations will have to be improved. Although new institutions and laws should not be seen as a solution to problems, some establishment or consolidation of organizations may be called for.

No matter how carefully thought out the processes or how methodically structured new institutions may be, the ability of Governments to intervene in the land-delivery process will always be limited. Therefore, it is vital that Governments concentrate on the crucial issues which they can best deal with.

As a corollary to this, it is also important that decision-making be distributed throughout the whole Government structure and not be concentrated only in the central locations of power. The general principle should be that decisions be taken at the lowest feasible point in the Government structure. One of the advantages of such a system is that skills of personnel can be closely matched to decision-making responsibilities.

Development of personnel skills is an important part of institution-building for land management. However, current systems of conventional academic training rarely respond to immediate needs of land-delivery agencies. Training emphasis should be given to developing specific problem-solving abilities, possibly through on-the-job learning as a prime means.

Even trained personnel will not be able to function without access to accurate and timely information. Existing systems of collecting data are fragmentary, unreliable and divorced from the needs of the poor. Also, access to these information banks is often restricted, so that those most in need of information cannot obtain it. Apart from technical information, the poor may need systems for communicating information within communities.

There must be flexibility to adjust processes quickly, if a particular approach is not working, so that programmes should always be under evaluation. For instance, there is great scope for experimentation with innovative methods of land tenure, for granting a variety of graduated rights in a progressive way, but the introduction of new measures should be done in a carefully controlled way. Regardless of all the technical improvements which can be made in institutions, training methods and information systems, the situation cannot be improved without the political will to apply all the available procedures in a determined way.

# Annex B

# Overview of Land Issues

## Public Land Acquisition

1. Most Governments are still far from being able to solve the problems of the poor who are attempting to acquire appropriately located, serviced land in the city. They cannot act quickly enough or on a sufficient scale to meet even minimal land-delivery needs. Furthermore, few of them have solved the financial problems associated with the scale of programme required.

2. It is commonly accepted that, to recapture or retain incremental land values, public acquisition of land and its subsequent disposal on a leasehold basis subject to regular rental reappraisal is the best theoretical solution. However, in many countries little attempt has been made to formulate and implement effective legislation that, for instance, allows public authorities to acquire land for low-income housing or serviced-site projects. Land acquisition is often hindered by lack of clear definition of what constitutes "public interest" or guidelines for assessing compensation. It must also be borne in mind that the theoretically ideal solution may have to be foregone in many developing countries which lack the administrative capacities for anything but the simplest practical procedures.

3. Public authorities often have the right to expropriate land in the public interest, but, even where there is a constitutional basis for public land expropriation, Governments' action has been very limited. In most countries, compensation is made on the basis of the prevailing market value, and this concept is commonly an insuperable obstacle. Systems of land valuation are often rudimentary and distorted by speculative and personal interests, so that land prices and real economic value sometimes have little relationship to each other.

4. Some countries are attempting to exclude the "hope" value of future development from the calculation of compensation, paying only the current use value. A few countries are attempting to solve the difficulty by paying compensation on the basis of land prices prevailing at a fixed date. In Burma, for instance, land needed for public purposes may be acquired for compensation equal to the market value of land in January 1948 or the price which the owner paid prior to January 1948. In Sweden, the prices prevailing 10 years earlier are the basis of compensation. In France, land acquired by the public authorities is paid for on the basis of prices prevailing one year earlier.

5. Value-freezing is a potential technique for overcoming speculation and increased land values in a particular site identified by public agencies for acquisition of land. Turkey has authority to freeze site values for a four-year period during which public acquisition can occur. Malaysia also uses the technique, and each state can set the length of time for control - normally up to one year. The value-freezing approach is a variant on pre-emption, frequently exercised in Sweden, France, Switzerland, Netherlands, Federal Republic of Germany and Japan. Pre-emption represents a means for controlling and acquiring urban-expansion land in developing countries without tying up large amounts of public capital for indefinite periods, but it has been rarely employed.

6. Land-banking activities have ranged from the acquisition of sites for new towns outside the main city (as has occurred in Singapore and Malaysia) to purchase of most potential sites for housing in expansion areas. Land reserves have been attempted in Ecuador and Chile, and Turkey has established a "Land Office" that is empowered to acquire land for public services. However, to date, the land banks in some countries have primarily been the result of historical accident rather than forward planning. While such land-acquisition programmes can be effective in directing land use, they may tie up large sums of capital for many years and put an excessive strain on a public authority's capital budget. Moreover, inasmuch as large-scale acquisition of public land increases demand and restricts supply, land prices tend to be forced up, hurting the urban poor in particular.

7. Problems of this sort have been encountered in Delhi, ever since the city began a land-banking programme in 1961. Public agencies have been slow to develop the land acquired, thereby unnecessarily locking up Government investment and losing potential revenue from the sale and taxation of this land. Freezing large areas of land without developing and disposing of it has contributed to housing shortages, illegal squatter settlements on the frozen land and sky-rocketing land values in Delhi. These limitations of the Delhi system raise serious questions about the practicability of large-scale, forward land-assembly operations, unless they are tied to pragmatic physical planning and fiscal mechanisms. Institutional and organizational structures by which public authorities are intended to manage large-scale acquisition programmes must be highly efficient.

8. Good land administration is the key to useful land banking. The success of land banking in Sweden and Netherlands is in large measure due to a variety of supporting measures and very sound administration. There are two essential factors for a successful programme of land banking: close connection with the planning and land-allocating authorities, and co-ordination between the various agencies involved in development plans. Municipal land ownership in Stockholm guarantees control of city development, generation of revenue to the city from increases in land values, and influence on land prices.

9. A considerable literature exists on the subject of excess land acquisition in developed countries. While it has been employed in the Third World, there is little evidence of its frequency of use. A great deal of the effectiveness of excess acquisition depends on the degree of advanced planning employed to determine that the surplus parcels are actually of sufficient size and of a character to be usable for productive purposes.

10. Land readjustment is used for some development of urban-fringe lands in Japan, Republic of Korea and Federal Republic of Germany. It is also used to a limited degree in some cities of India and Australia. The experience with land readjustment in these countries has shown that it is a technique that could be widely adopted to improve the process and pattern of urban development in the Third World. There is, therefore, a need to investigate and review the use of land readjustment in experienced countries and draw out the lessons from their experience. Several experiments in land readjustment have been carried out in Kenya, but their impact has been minimal; and the administrative and political problems involved have discouraged planners and administrators.

11. In order to redistribute the benefits of land ownership and to acquire land for public purposes, Bolivia, India, Nigeria and Sri Lanka have introduced a limit or "ceiling" to the amount of land or value of land which any one owner may have. In India, the liberal exemptions and amendments granted by State Governments have already rendered the legislation on the ceiling more or less ineffective. In Nigeria, the ceiling on urban plots is comparatively large and does not limit private holdings of developed land.

12. Some countries in Asia, Africa and Latin America have nationalized all land and ensured that public authorities have powers to guarantee public rights in land use. The practical and administrative problems have been such, however, that the end-result has often not been much more effective than the system that was replaced. In countries with centrally-planned economies, land is generally regarded as a resource of socio-economic value and not a marketable commodity. In these countries, the role of the market mechanism with respect to formation of land prices and allocation of land is completely excluded. Governments theoretically exert a direct control over all land, serving equitably the needs of the whole society. Again, such a process supposes an extremely high degree of bureaucratic efficiency as well as a total knowledge of the land supply/demand situation. In almost all developing countries, effective programme administration at this level of complexity is not likely to be achieved.

### **Land Acquisition Financing**

13. Financial difficulties are often seen as the main obstacle to the implementation of a public land-acquisition policy. Many countries have established institutions for gathering funds and employing them to acquire land and

build housing for low-income groups. However, there is difficulty in attracting private savings to build marketable housing for people with very low and fluctuating purchasing power.

14. One method of financing is through forced savings, as is the case in Singapore and Brazil. In Singapore, the scheme has worked satisfactorily, but, in Brazil, the National Housing Bank has provided cheap credit to upper-income individuals, contractors and land developers. This policy has not only failed to help low-income groups but also exacerbated their problems by contributing to a strong speculative boom. By contrast, Tanzania and Tunisia fund low-interest housing loans for low-income groups from payroll tax revenues.

15. In Colombia, there is a joint venture in urban development between a Government mortgage bank, constructors and administrators of social security funds (investors). The bank, as owner of large extensions of urban land, uses "expensive" money from social security funds to develop land for the construction of housing units whose sale produces profits for the bank. These profits are then used to buy new land for urban renewal projects to be built by the bank itself or contracted constructors. There is, however, no evidence that the bank's activities can be directed towards the satisfaction of land requirements of the poor.

16. In Ghana, where land compulsorily acquired is communal land, the capital amount of compensation is not paid. Instead, under the Administration of Lands Act, 1962, such sums are invested in Government bonds, and the annual interest is paid. By this device, the Government is actually borrowing the compensation from the owner. If such a policy is adopted in providing land for the poor, two implications are evident. First, the acquisition itself need not place strains on the country's budget, as the Government need not find "hard cash" for the payment of the compensation. Secondly, the cost of land to the beneficiaries of the schemes could be amortized over a long period, so as not to place the beneficiaries in any financial difficulties.

### **Public Land Disposal**

17. One of the most discussed problems of public land administration in market-economy and mixed-economy countries is the question of leasing or selling land to users. In Burma, all lands are state lands, and individual rights to land are established by grants, leases and licences. Leaseholds run from five years to a maximum of 90 years and reflect the use to which the land is to be put and the degree of development of neighbouring lands. Fijian landowners are prohibited by law from selling their land: such land can only be made available for use by leasing through the Native Lands Trust Board. Some authors believe that the leasehold system works satisfactorily, given efficient administration of the system and of the management organization. Whilst leases are less than freehold interest,

they do convey exclusive rights of use for a definite period, and, for Fiji, the system includes land held under customary tenure.

18. In Sweden, the Government gives preference to leasing which enables the community to protect leaseholder's rights, introduce adjustment of land rents to the current land value in the open market, and ensure equalized rents over the total built-up area. The capital city of Australia has been using the leasehold system since 1924. In France, generally, land acquired by the public land-acquisition agencies is sold to developers.

19. There are obviously pros and cons in each of these systems. The leasehold system allows the public authority to keep for the community the permanently increasing urban land values. However, effective leasing systems call for large-scale and efficient administrative organizations to be set up on a permanent basis, and the costs and difficulties of overseeing leasing procedures may outweigh the benefits. On the other hand, the system of selling public land is less in keeping with long-term development goals and may be unduly influenced by short-term needs. For instance, public authorities in Iraq, Jordan and Egypt have sold urban land at well below market prices to stimulate housing construction, but none of them complemented this with steady public acquisition of replacement urban land in advance of need. Therefore, although this policy may have increased housing construction in the short term, the massive and still rapidly rising urban housing deficits in each nation suggest the need for a policy of long-term significance.

20. In discussions about the advantages and disadvantages of the leasehold system, the essential problem is seen as being how to encourage large-scale land-acquisition in advance, in order to create a land reserve for future urban development. However, without effective lease conditions, the public authorities lose the main advantage of the leasehold system for which they have foregone the immediate financial advantage of selling the land. Various forms of leasehold tenure are in many cases the most effective means of controlling publicly held land and encouraging its appropriate use, but they have to be used in conjunction with fiscal and land-tenure measures, if the objectives of public policies are to be realized.

21. The formal allocation of land and related resources to the poor has involved several approaches - delivery through public agencies, including public housing and sites-and-service schemes; squatter up-grading programmes; encouragement of the private sector to provide housing and land by offering consumer or producer subsidies; and legalization of unauthorized subdivisions.

22. Public housing, while making a contribution to meeting housing needs, has virtually everywhere been unsuccessful in keeping up with the demand (Singapore is one of the notable exceptions). Sites-and-services projects are still being vigorously pursued in many countries, but the decade and a half since 1966 has revealed increasing difficulties,

and these programmes have not yet been on a large enough scale to make supply equal demand. Consequently, urban land prices continue to rise, and the problems of acquiring land for sites or paying compensation to provide title in upgraded areas have become more difficult, especially if there is a requirement that all projects be ultimately self-financing.

23. In Kenya, the squatter-upgrading effort that is now being undertaken has still not solved the problem of how to grant tenure to squatters, and sites-and-services and squatter-upgrading schemes have often served the well-off as much as or more than the poor (Liberia, Ghana, Kenya). Adequate steps must be taken to curtail the tendency for low-income housing schemes to benefit privileged urban dwellers and high-income groups for whose benefit the schemes are not originally planned. For example, criteria laid down for granting housing loans should not be such as to exclude low-income earners from benefiting.

24. The purchase of land for the poor or subsidization of purchases has not been found to be effective. Governments' resources are inadequate, given the enormity of the need and competing demands from other programmes. Furthermore, when Governments enter the land market, they contribute to rising prices.

25. Public intervention in the land-delivery process is easiest at moments of "transition" in the ownership and development of land. The first moment is the transformation of agricultural into urban land, and some developed countries have instituted a policy of advance acquisition, by purchasing land in agricultural use which might be required for further urban development (France, Spain, Sweden). Their experience shows that such policies economize on public spending and also provide an efficient tool for implementing development schemes. The second moment coincides with the installation of urban services, when the public authority installs water mains, sewers and roads. The provision or withholding of public utilities as a technique for exercising control over land which has not passed through public hands has been little used to date. The third moment occurs once actual building commences. At this point, financial commitments occur, and controls such as zoning and building codes become decisive. The fourth important moment occurs at the time of reassembly, renewal and reallocation of land, at which time investment, public intervention and future tenure-security interact again.

26. Tenure offers particular opportunities for harnessing the powerful energies for "self-build" development found in illegal squatter settlements. It is found that legalization of illegal settlements often sets off a wave of housing and infrastructure improvements. Some countries, such as Iraq, still punish illegal occupation, but such examples are becoming rare. The eviction programmes which were carried out in some countries during the 1960s and early 1970s are now being superseded by policies aiming to protect illegal residents (Tunisia, Tanzania, Indonesia,

Philippines). Tenure controls exercised through deed restrictions or lease provisions may be a very powerful tool.

27. Another issue which should be addressed under this theme is planning instruments. In most countries, land-use planning is practised at the city scale. However, in many countries, master plans have not been implemented because they are not linked to the capital-investment and credit policies of Governments. Many countries have adopted or directly transferred land-use and building regulations and procedures from developed countries, regardless of their unsuitability. These procedures are usually unworkable in developing-country situations and actually hamper the adoption of appropriate planning processes and solutions.

### **Land Registration Systems**

28. The necessary statistics and data for public land acquisition and disposal are often not readily or speedily available in developing countries. Rarely does there exist an adequate data-delivery system by which needed information can be collected, processed and managed, so as to ensure timely and sufficient data flows between those agencies responsible for its provision and the decision-makers who require it for planning, allocation and development.

29. For example, there are now five systems of land registration in Kenya, each of them supposedly simpler than the one it was designed to replace. Their combined effect, however, is to render the whole process impossibly complicated. Many developing countries lack appropriate maps, land classifications, valuation systems, registers, inventories and cadastres. The absence of reasonably accurate cadastral systems makes land acquisition and disposal extremely difficult, and in many developing countries, upgrading projects are greatly handicapped because of the lack of land-registration systems.

30. Information on land holdings is an important precondition for a public land-acquisition policy. Cadastral maps are vital for efficient expropriation procedures, and land-value maps are essential for establishing compensation. The collection of such data is, however, not in itself sufficient. Apart from the fact that there must be a capacity for keeping the data up to date, there must be a system for managing and processing the data, once it has been collected and stored. New microprocessing technologies offer very promising prospects for efficient, low-cost data storage and retrieval in developing countries.

### **Conclusion**

31. Solving the problems of land acquisition, disposition and registration directed towards housing the urban poor will not settle all the questions of land reform in deve-

loping countries. However, it would have an enormous impact on the management of the rapidly growing urban centres where conditions are in many cases approaching the crisis point. Land for housing the urban poor can be argued as being the most vital need in saving the cities of the Third World and achieving some equity in living conditions for their low-income and disadvantaged populations. It, therefore, merits the highest priority in the human-settlements programmes of developing countries.

## Public Land Acquisition and Shelter for the Poor

*by David Satterthwaite*

The central characteristic of the Third World housing crisis in the cities is the fact that the majority of households cannot afford the cheapest legal housing plot, let alone the cheapest legal house. Thus, in most large cities, the majority of new houses and new residential developments consist largely of self-constructed dwellings with few basic services on illegally occupied or subdivided land. More than a million people live in illegally developed settlements in many of the large cities - Manila, Mexico City, Sao Paulo, Bogota, Lima, Lagos, Cairo, Bangkok, Bombay, Delhi and Karachi among them. In nations lacking multi-million inhabitant cities, from a third to three-quarters of the largest city's inhabitants can live in illegally or informally developed settlements - Nairobi, Guayaquil, Freetown, Nouakchott, Colombo, Ouagadougou, Lusaka and Bangui being examples. The challenge facing Governments is (at the very least) to close the gap between what the low-income groups can afford to pay for a plot on which to construct their houses and the minimum cost of a legal plot with water, sanitation, services such as garbage removal and public transport, and easy access to employment sources and community facilities.

### Informal and Illegal Settlements

There is some argument for saying that public land acquisition action should be taken largely to legalize and support the informal processes by which illegal settlements get constructed. If a settlement grows up on public land, the problem of public acquisition, of course, does not arise. If it grows up on private land or on land where ownership is unclear, public intervention can transfer tenure to the dwellers. Further support for this approach comes from the fact that, in terms of price and location, illegal settlements often match low-income groups' needs, priorities and resources far better than do public housing schemes or indeed, on occasion, serviced-site schemes.

However, if public action is largely confined to the granting of tenure and the provision of services and infrastructure to illegal settlements after they have developed, this brings with it five dangerous consequences. The first is that illegal settlements often develop on dangerous land such as on swamps, floodplains or unstable hills or right next to railway lines. Because such land has little commercial value, the inhabitants stand a chance of not being forcibly evicted. Nevertheless, these are hardly the right sites for permanent settlements.

The second consequence is that, since legalization and services and infrastructure provision always come after the settlement has developed, the inhabitants have to exist for a time without services or certainty as to their tenure and, thus, with little incentive to develop their houses. This period of uncertainty can last for many years - often for decades - during which time valuable opportunities for upgrading can be lost. Furthermore, land values can rise over this time, making eventual legalization expensive and conflict-ridden.

The third consequence is that the city's built-up area grows haphazardly. Pockets of high-density illegal settlements spring up in certain areas - perhaps on a plot of publicly-owned land or a plot where ownership is unclear or under dispute. At the same time large tracts of well-located land are held undeveloped for speculative purposes or developed only at very low densities. This produces a settlement pattern which is expensive (and often very uneconomic) for the provision of water, sanitation, electricity, roads and public transport. It also often means that illegal settlements spread over what is very high-quality agricultural land or over land which should be kept as public space.

The fourth consequence is that, because of their illegal status, shanty-town dwellers are subjected to corruption and harassment. The concept of the law as a protector of their rights simply does not exist. This brings all legal processes into disrepute and greatly complicates the desirable mobilization of community resources.

The fifth consequence of simply legalizing informal processes as the Government's sole response is that real estate companies and private developers will come to dominate the illegal land market. If the public authorities are seen to tolerate and then legalize squatting and illegal subdivisions, the illegal land market will become, like the legal land market, dominated by those with capital. The result will be widespread speculation pushing land prices up. For instance, in Mexico City and in Bogota, most of the new additions to the housing stock over the last 20-30 years have been on illegal subdivisions rather than through squatter invasions. The land developer in the illegal market often makes profits equal to or higher than those in the legal market. In Ankara, the past 20 years have seen the informal processes through which low-income groups acquired housing plots increasingly controlled by building and real estate companies. The result has been a rapid escalation in land prices with poorest households hit hardest.

There have been cases of private land-owners with relatively worthless poor-quality land actually, behind the scenes, organizing a supposedly illegal squatter invasion of their land. The squatters then develop the land, and the land owner can demand compensation from the public authorities, getting far more than the original land was worth.

## The Purpose of Public Acquisition of Land

If public authorities want to guide urban growth and to reduce the problems inherent in relying only on illegal developments to provide new housing for low-income groups, they have to offer a legal alternative which low-income groups can afford. Thus, Governments must seek ways of vastly increasing the supply and reducing the cost of legal development land. Since land is an important cost component - often the most important - in low-income urban housing, Government intervention in the land market is essential. As part of this intervention, public acquisition of land (or of the right to use land) must play a large role.

Clearly, there are certain preconditions for an effective public acquisition programme to help provide low-income groups with improved housing conditions. The first is firm Government commitment to such a goal, with this commitment backed by fiscal and human resources. The second is a good understanding by the public agencies involved of the needs of low-income groups. Neither has been much in evidence recently, although perhaps some progress has been made in the past 15 years.

One area where there has been a positive change in many Third World Governments' orientation is the replacement of slum and shanty-town demolition with upgrading programmes. In some instances, the provision of secure tenure to squatters has greatly encouraged the development and improvement of their houses and their whole settlement. In contrast, there have been few successful Government programmes to build new units which match the needs of low-income groups. Public housing programmes did expand in many nations during the 1970s, but targets in national development plans were far behind the growth in need and were rarely met. Cost over-runs pushed unit prices beyond the level low-income groups could afford, and, where large unit subsidies were given, the size of the subsidy limited the number of units built. If relatively few heavily subsidized units were built, they were usually allocated to well-off households or were soon bought by such households. The failure or only partial success of public housing programmes, both in quantitative terms and in terms of reaching those most in need, was evident in many nations during the 1970s, including Egypt, Brazil, Bolivia, Mexico, Kenya, Nigeria, Indonesia and the Philippines.

Public acquisition of land to be developed for serviced-sites has met with more success, but, even here, results have been very mixed. Such schemes can reduce unit costs and get closer to prices low-income groups can afford, but, in many instances, they have run into problems similar to public housing projects. As with public housing, sites-and-services schemes were often poorly located in relation to low-income groups' main income and employment sources. To reduce costs, they were often developed on the city periphery where land was cheap and easy to obtain. Many schemes only provided one or two choices in terms of plot size, plot price and repayment conditions. Yet, among low-income groups within any city, there is a phenomenal

**COMMUNITY HEALTH CELL**

47/1, (First Floor) St. Marks Road

**BANGALORE - 560 001**

01573

C 8100

diversity in terms of different individuals' or households' shelter needs and priorities. Indeed, within illegal shanty towns, the needed diversity in terms of trade-offs between cost, size and quality is much more evident than in official serviced-site schemes. There are, also, instances where serviced-site schemes were too expensive for low-income groups, despite large unit subsidies. This does not imply that serviced-site schemes cannot play a large role in providing an alternative to illegal developments: it simply means that many projects to date have not managed to match the needs of the poor.

Assuming that a Government is fully committed to reaching low-income groups with improved housing, allocates the resources to this goal and understands how public programmes can be made to match the needs of the poor, one then turns to the question of how to acquire necessary land, and the rest of this paper concentrates on land acquisition in cities. The discussion does not include small towns, villages or rural areas, since poor households' acquisition of housing sites is usually far less of a problem in rural areas than it is in cities. The discussion also concentrates on cities where public bodies are not the main land-owners. A Government committee that determines land uses where land is publicly owned can be as insensitive to the poor's housing needs as the open market, but at least the problem of public acquisition does not arise if most or all urban land is already in public ownership.

### **Public Acquisition in the Market**

Public authorities or their agencies can simply enter the land market in the same way that any individual or land developer does, buying land which has been put on the market for the asking price. However, well-located land acquired in this way may be too expensive for low-income residential developments. Acquiring cheap land on the city periphery or land poorly connected to the city's employment centres can reduce costs, but, in an unregulated market and in a rapidly growing city, land onto which the city will soon expand will also be expensive. Owners of such land expect large rises in the value of their land as it changes to urban uses, and, in the short term, such land is of little use for serviced-sites schemes because it is too distant from low-income groups' sources of income. Furthermore, for many poor households, having to move from (say) an inner-city slum or a shanty town close to the city centre to a serviced-site scheme on the periphery would break important social and economic ties with people and establishments in central locations. It is a sad irony that households with the lowest and least stable incomes need the cheapest and easiest access to centres of employment, yet such land is usually amongst the most expensive to acquire.

Perhaps public agencies involved in acquiring land for low-cost housing or serviced-sites projects could exchange land with private land-owners, as is mentioned in the Kenyan monograph. However, this implies that public authorities already have valuable land with which

to bargain. In most instances, land acquired on the open market cannot be used to expand greatly the supply and lower the cost of serviced housing plots, because well-located land is too expensive, and cheap land is unlikely to suit low-income groups' locational needs.

### **Compulsory Acquisition and Acquisition Below Market Price**

Virtually all Governments in market or mixed economies, regardless of political philosophy, have compulsory acquisition powers. The difference between them is the extent to which these powers are used, the extent to which landowners can challenge their use, the way in which compensation is determined and how long the whole acquisition process takes. Where private or communal land ownership prevails, compulsory acquisition is regarded as the most extreme form of public land acquisition. Not surprisingly, it encounters strong opposition from powerful vested interests. These interests can often enormously delay the whole process and obtain a level of compensation which again ensures that the land is too expensive for low-income housing or serviced-site schemes, except with large unit subsidies.

In some instances, special measures have kept the price of land acquired through compulsory acquisition lower than market value. This usually implies depriving the owners (or those with rights to use the land) of land values deriving from anticipated changes of use or public or communal investments. This has been used in several Nordic countries - for instance setting the compensation for compulsory acquisition at the value of the land several years before the decision was made to expropriate it. In the Third World, given the strength and influence of private landowners and the protection and support they receive from the law and the courts, this is rarely possible. The case of Delhi is a notable exception, as is described in the Indian monograph. Around 66,000 acres of undeveloped land were notified for public acquisition at 1959 price levels, and since then, land has been expropriated when needed. While this solved the problem of public land acquisition, in fact the Delhi Development Authority did not make use of public land reserves to tackle low-income groups' housing problems. In any event, national capitals are special cases, and political support for their development and for strong public-agency powers in their development is more forthcoming than for other cities. Other Indian cities have had great difficulty in public land acquisition and in paying compensation at lower than current market values.

Finally, land for low-income housing developments may not be seen as sufficient justification for compulsory acquisition. The land needs of the poor for housing rarely receive the same priority as, say, an airport or major road. Indeed, public land acquisition for low-income housing has been noted as a problem in many countries. The Kenyan monograph notes that land assembly for low-cost housing projects is much more difficult than originally envisaged at project-preparation stage. In the World

Bank's sites-and-services programme over the past 10 years, unexpected difficulties in completing land acquisition was one of the most common problems experienced.

Thus, for efficient compulsory acquisition, there have to be clear supportive legislation and clear criteria for determining compensation. While it is beyond this paper's scope to go into the complex issue of what determines land prices and values, certainly a large part of urban land's market value relates to public and community investments and decisions which have little or nothing to do with the landowners' or users' development on that land. While public and communal investments create a large "unearned increment in value", it is usually the private landowner who receives the benefit of this. Unless criteria for determining compensation can distinguish between these, so that compensation is based on the owners' investments in acquiring and developing the land, separate from the value coming from anticipated changes of use or public investments and developments, public agencies will never be able to acquire cheap land.

This has special relevance for compulsory purchase of land still in non-urban use, such as agricultural land on the periphery. If purchases can be made at a price related to existing use, this can ensure public acquisition of land needed as the urban agglomeration expands. It can be done at low cost with the land leased back to the farmer until needed.

Nevertheless, there are three problems here. First, if this is public agencies' main concentration, it distracts attention from pressing and immediate problems. Secondly, the owners are likely to oppose purchases at 'existing use value', since this removes the value arising from anticipated changes of use. Thirdly, it is often on such agricultural land on the city periphery that settlements have already developed - usually illegal subdivisions made by the farmer or by a developer who purchased the farmer's land. As the Kenyan monograph notes, if this land is purchased by public agencies, it may well be occupied by squatters before the agencies have developed it.

There are various ways in which compulsory acquisition can be made to work efficiently. One is to give Government agencies the power, ability and finance for such acquisition, which authority then gives them bargaining strength in negotiating with landowners. In Tunisia, Singapore and the Netherlands, there are strong and clear expropriation powers for land for housing, but these need not be used. Private negotiation with landowners is preferred. This speeds up the whole acquisition process, and lower prices are paid because the landowner knows that the agency can resort to compulsory acquisition if necessary. In India, the relatively weak bargaining position of public authorities generally means that they will choose to acquire not the land best suited to the proposed task but land which they know will present less difficulty to acquire.

Another way around this problem is for public authorities to acquire only certain rights to land they need. This is of special relevance in societies where traditional land-tenure systems are still strong and where land owner-

ship is still vested in the community, with the chief or community leader acting on the community's behalf in allocating land. To avoid conflicts with traditional concepts of tenure, Governments could lease land from the community with the traditional right-holders retaining important if, in economic terms, largely symbolic rights.

### **Landpooling and Readjustment**

Another way around the problems of compulsory acquisition is by land pooling. Here, a public agency can acquire an area under many different owners and rationalize the land-holding pattern. Then, it can provide infrastructure and services efficiently, and reallocate land in clearly defined plots to former owners. The public agency can recoup its cost in developing the land and installing infrastructure either by charging the landowners or by retaining a portion of the land within the area for sale to cover these costs.

Land pooling has been widely used in Japan, Republic of Korea and the province of Taiwan and tried by several other countries. One advantage is that there need be no delay in acquiring the site because of wrangles over compensation. While the site is being developed, the reallocation of land or costs can be worked out. Another advantage is that land needed for infrastructure and services can be obtained at no cost. Finally, there is the possibility of charging the landowners for the cost of installing infrastructure and services, as their installation will greatly increase the value of the land and the landowners should not receive this "betterment". One way of doing so is to retain part of the area and develop it for low-income housing plots. One notes, however, that Kenya's experiments in land readjustment have not met with much success.

### **Land Ownership Ceilings**

Another way of acquiring land is the setting of ceilings on the amount of urban land or vacant urban land that any individual can hold - with land over that ceiling subject to expropriation. This has been tried in Bolivia in the early 1950s, in India through the Land Ceiling and Regulation Act of 1976 and in Nigeria through the 1978 Land Use Decree. None of these met with much success.

In Nigeria's case, the land ceiling was so large and there were so many loopholes through which landowners could gain exemption that it has had little effect. In India, in most cities, either the law has not been implemented or so many landowners gained exemptions as to render it largely ineffective. It was recently reported that, in Bombay, just one family owned 2000 hectares of undeveloped land which, if expropriated and developed for low-income housing, could house most of Bombay's 3 million or more slum, shanty-town and pavement dwellers. In Tamil

Nadu, pressure from private developers ensured that the ceiling figure was increased from 500 to 2000 square metres, thus again rendering the legislation largely ineffective.

### What Can Facilitate Public Acquisition?

Various other measures exist for facilitating public land acquisition. For instance, there are pre-emption rights, which allow public agencies first refusal on all land which comes onto the market, or the freezing of land purchase prices, which can be linked to pre-emption rights. One intriguing example is found in the province of Taiwan. Here, landowners must declare the value of their lands for taxation purposes, and public authorities can purchase the land at that value. If a landowner undervalues the land to reduce the tax burden, the authorities can acquire the land cheaply. However, it is not clear whether this has been effectively implemented.

All of the acquisition mechanisms are of little value, unless public authorities have a clear idea of who owns what land and a clear procedure for establishing land values. The Jamaican monograph notes that half of the nation's land plots are not properly registered and that this hampers public acquisition programmes. Pre-emption rights will never be effective if most land transactions are done illegally and not registered - as in countless Latin American and Asian cities - or if they take place in urban areas which have grown over land where title is very unclear and muddled, as in many African countries and Pacific island-nations.

Clarifying land tenure has to strike a delicate balance. On the one hand, it has to guarantee public rights to land use: On the other, it must guarantee individual land-users secure tenure, the right to use the land as security for a loan, and the right to sell either ownership or rights of use to another, with the selling price reflecting the investment that the user has made in developing the land. Too much stress on public rights will discourage individuals' building-maintenance and improvement efforts, as recent experience in Zanzibar has shown. Too much stress on private rights will guarantee that the poor majority cannot get legal land sites in cities.

No system of land tenure is likely to be widely acceptable, unless it has links with existing laws and traditions. In many nations, land tenure based either on British Common Law or on the Code Napoleon is so strong that it is on these that changes must be based. Common law gives good scope for increasing public rights to land, since rights on land always derive from the Crown or the State: the Code Napoleon gives less scope in that it guarantees private-ownership rights, but adaptations can be made.

Just because these two models were so widely exported under colonial rule, it does not follow that only these models are appropriate. Islamic law remains important and has, within it, land categories for public purposes. Customary law's concept of communal ownership can be adapted to modern need. For instance, in Tanzania, virtually

all land is publicly owned, with individuals granted rights of occupancy derived from the President. Similarly, in Nigeria, private urban land ownership was abolished, and now land is owned by the State, with individuals having rights of occupancy and the right to sell developments on their land. Both have similarities to traditional tenure and to leasehold - a concept well developed in Common Law.

On whatever tradition tenure is based, there must be clearly defined public rights. Only with these can there be public acquisition of land (or right to use land) for low-income housing on a sufficient scale to make some impression on need.

### **Public Acquisition and Illegal Settlements**

Since, in most cities, much of the new housing and virtually all new low-income housing is built on illegally occupied or subdivided land, what role must public acquisition play? It seems clear that, in most instances, granting some security of tenure to illegal settlements' inhabitants and providing them with basic services are the only ways of reaching the poor with improved housing and living conditions. With the benefit of hindsight, it can be seen that, if these largely self-constructed and self-managed settlements had been guided and steered within a rational land use plan, it would have been far cheaper to provide them with services and infrastructure than it now will be. The only response now can be to work with the people living there in upgrading their habitat and improving their security.

On land already publicly owned, the problem of acquisition does not arise. If squatters are on privately owned land, public acquisition of that land can be undertaken. Then, perhaps through a system not unlike land-pooling, infrastructure and services can be installed, and definitions as to who obtains what rights to what land can be clarified. This will probably be a slow process. Then, in granting tenure, there is the problem that the first squatter may have acquired many plots of land which they rent to others. Legalizing existing informal tenure may legalize extensive landlordism.

Illegal subdivisions - where a landowner or developer sold housing plots without official approval and very often not meeting official subdivision regulations and infrastructure and service standards - can usually be made legal or "regularized" fairly easily. The layout is often similar to official standards, allowing for easy installation or upgrading of infrastructure and services. However, some measures should be used to penalize the individual or company responsible for the original subdivision, since otherwise the developer will receive the profit, while public authorities must bear the costs.

It may be that many of the poorest households cannot afford to be "legalized" and given secure tenure if their only protection from rising land prices, property taxes and service charges is their insecure tenure in an illegal

settlement. Regularizing and legalizing a squatter settlement implies public costs. Attempts are often made to recoup these through, say, property taxes or plot charges. However, the poorest households may have lived in a squat because this meant no monetary cost at all, and they cannot afford to pay anything. There are many recorded instances of illegal settlements being legalized and the occupants given tenure, with the result that the poor are rapidly pushed out by high-income groups. Controlling this process is difficult and, in itself, has undesirable connotations.

A clear idea of what the illegal community concerned actually needs - perhaps leasehold rights for 10 years with the opportunity to renew those rights after 10 years - is one possible solution. Another might be to give an illegal community security from eviction but no leasehold or freehold title to plots until a certain payment for infrastructure and services has been made. This would allow the poorest households to stay with security from eviction without any payment. Those who wished to sell their plots would have to purchase the legal title first and, thus, help pay for public costs. While, of course, those without legal title would also on occasion be able to sell their land informally, the increased price they would get by being able to do so legally would encourage them to purchase the title first.

### **Financing Land Acquisition**

The final issue to be discussed is the financing of land acquisition. The ideal solution is a strong financial base at city level, but, in city after city in the Third World, with the exception of certain primate cities and metropolitan areas of national importance, city authorities remain very weak both in financial resources and in trained manpower. The financial and administrative weakness of local authorities is noted in the Indonesian monograph. Many have had their traditional revenue resources removed by central Governments, as in the case of Kenya in 1974-1975, and replaced with inadequate and often declining grants. Many can hardly pay their own employees' salaries, let alone invest in needed infrastructure and services.

The financial and technical ability to mount a land-acquisition programme is simply not available even assuming they had the legal power to do so. Most do not have even an up-to-date cadastral survey, as noted earlier, and the few local taxes are either grossly inadequate or poorly collected (or both). Of course, the lack of a cadastral survey removes the possibility of taxes based on property (whether based on rental, unimproved site or capital value) which could be the main underpinning of public investment as well as of land acquisition. A property tax involving regular revisions in tax rates can be used as the basis for defining compensation for land acquisition, but few cities have property taxes with regular updating of assessments. Many that do cannot collect the taxes, because of a long tradition of non-payments by landowners and little backing from the courts for enforcement measures.

The problem of weak city Governments is often the reason why national Governments set up special national or State agencies to undertake tasks for them. However, this runs the continual risk of having little or no co-ordination between city-authority plans and State or central Government-agency activities. There are often different supracity agencies - say, one involved in public housing and a second in public works - who do not work together. One can even find cases where, for a particular city, each had its own plans, so that the planned expansion of the water supply and sewerage system was in a different direction from plans for new residential developments. For the acquisition of land needed by the city, perhaps a national or regional agency might begin the process. Nevertheless, for a successful sustainable long-term programme to have some effect on improving low-income groups' access to land, there is no substitute for city authorities with the financial and technical resources to undertake the task themselves.

In considering land-banking schemes, it must be borne in mind that immediate high capital investment will be required in exchange for long-term benefits. However, these benefits will not be justified, if they are obtained by tying up capital needed for more pressing concerns - such as extending water-supply or sewerage systems which reach only one-fifth of city population.

One approach is for a rapid process of public acquisitions, development and disposal - a process followed by the Agence Foncière d'Habitation in Tunisia. This, along with other land agencies for industrial and tourist development, acquires needed land, by compulsory purchase if necessary, develops it (i.e. by installing infrastructure and services) and then sells it at cost price to builders or developers. Thus, it ensures that cities grow according to the plan - for the land is purchased and developed within the framework of the plan - but the operation does not demand the tying-up of capital because land is sold soon after purchase. The Agency has stimulated the development of middle-class and upper-class housing which has taken some of the housing pressure off the market. Meanwhile, a regionally based public housing agency, which also has compulsory land-purchase power, concentrates on public housing, core housing and serviced sites for low-income groups. In addition, slum and squatter-settlement upgrading has recently replaced squatter-removal programmes.

While the Tunisian Government's initiative to improve low-income groups' housing conditions is by no means a model and has its own difficulties - most especially in providing low-income groups (particularly the poorest) with the needed diversity in terms of price, location, plot size and extent of self-managed construction - its achievements are impressive compared to those of most other nations. So, too, is its understanding that a public land policy must underpin a programme to improve low-income groups' housing and living conditions.

It would be a disaster if ambitious land-banking schemes - with their need for substantial capital investments and highly competent and trained staff - diverted Governments' attention from mundane and basic needs, such as

improving infrastructure and services to illegal settlements, revising inappropriate building and planning codes and regulations, providing credit facilities for house construction and upgrading, introducing or revising property and land-profit taxes, up-dating cadastral surveys and the regular assessments these imply, and strengthening city financial and technical bases.

It makes little sense to talk about public acquisition of private land, if various public bodies already have large amounts of land which could be used first. For instance, the military and the railway authorities often own valuable land which they are unwilling to give up. In all too many cities, one sees publicly owned sites which are poorly used. The partial or total relocation of activities on these sites to less valuable and less central locations could free large amounts of land well suited to low-income group residential developments. An inventory of all land sites already in public bodies' ownership or control and its transfer to public agencies involved in low-cost housing could enormously reduce the problem of getting cheap well-located land.

Then there are other ways of increasing the supply of land or housing sites which do not involve public acquisition. For instance, heavy taxes on vacant or poorly developed land can bring land onto the market or, at least, encourage its development. In many cities and metropolitan areas, there is no real shortage of vacant land: the shortage is of sites the poor majority can afford. Reducing subdivision standards, improving the efficiency of official processes through which planning permission is given for low-income residential developments, adopting appropriate building codes, and providing easy-to-obtain loans for house construction or improvement which low-income groups can afford all should play important roles in reducing the cost and increasing the supply of legal subdivisions. For plots for the poorest households, perhaps no building standards at all can be demanded, as in the Sudan's urban areas. The private sector could also be persuaded to allocate land for low-income housing by setting conditions for planning permission for commercial or residential developments such that a certain proportion of the land has to be allocated to cheap serviced-site schemes. Changing the concentration of public-housing agencies from small numbers of expensive, subsidized houses to modest units, such as serviced sites, built in great quantities would boost land supply for low-income housing.

There are issues that this short paper has not had time to cover - perhaps most specifically the best way of raising funds for public land acquisition. However, it is clear that a public land-acquisition policy on a scale to help low-income groups find secure and acceptable quality housing must meet many preconditions. As Louis Menezes stresses, the essential precondition is strong Government commitment.

# Theme Paper II

## Public Land Disposal Methods

*by Louis Menezes*

### Introduction and Background

Land for housing the low-income and disadvantaged groups is a key issue facing human settlements. Hence it has been selected as the main theme of the sixth session of the Commission of Human Settlements to be held in Helsinki in April, 1983. The continued lack of access to land by the poor is viewed as a complex and critical issue to be brought to the notice of national Governments, non-Government agencies and international bodies.

The political will to challenge the adverse consequences of urbanization is yet to emerge. Urbanization is one of the most powerful socio-economic movements in the history of man. Its problems can only be met by equally powerful responses. An adequate response to the challenge of housing low-income groups and gradually improving housing conditions over time will only emerge as such movements come into being.

It is within the power of human settlements to meet the challenges that have been created by their rapid and unplanned growth. Settlements continue to generate wealth which appears adequate to manage them and ensure that every citizen can satisfy at least basic needs. The full potential of human settlements to respond to this problem has not been realized. We must therefore create the conditions in which the poor have adequate access to land, can house themselves and can participate effectively in the social, economic and political life of these settlements.

### Informal Processes

Evidence shows that informal settlements supply the bulk of land for housing low-income groups. In many cities of the developing world large proportions of people live in informal settlements. They range from Sao Paulo's 32 per cent, through Manila's 40 per cent to Adis Ababa's 85 per cent. Their main virtues are that they are generally affordable and that they offer a variety of options within the means of the poor.

Informal arrangements for land and housing can be non-commercial or commercial. Under the first classification we could have settlements on customary lands, alienation of Government land, occupation of abandoned properties

and encroachments on marginal lands. Under the second head would be illegal transactions and failure to conform to regulations, illegal sale of public land, substandard or illegal subdivision and sale of land, land fragmentation in existing settlements and land rentals of various types.

### **Public Intervention**

Government intervention in this field has been weak and inadequate. Initial attempts at formal public housing have run into serious difficulties due to the lack of resources, or because of managerial inadequacies or other insufficiencies, and thus touch only the fringe of the problem. Hence the shift in recent years has been to sites-and-services projects.

If the bulk of land for housing the poor in developing countries is now being supplied by informal processes it is best to understand the implications of this phenomenon and then decide what needs to be done:

- a) such settlements create problems both for the residents and authorities;
- b) because they are illegal there is no protection of the law or against exploitation;
- c) because land tenure is illegitimate and insecure there could be constant harassment and imminent threat of eviction;
- d) since they are not serviced adequately health and environmental hazards may occur;
- e) they pose problems of law and order, provision of services, enforcement of land use and building regulations to Governments;
- f) as long as tenure is uncertain people are reluctant to invest or improve their housing and environment.

Public agencies having land are reluctant to release it for housing. They have been found to act very much like private developers, using land to generate revenues rather than a resource for solving the urgent problem of housing. Land acquisition processes are slow and cumbersome. Even the little that is acquired is not used for housing. Hence there is increasing recognition that the informal processes play a positive role in this regard. There is a gradual shift from formal housing and clearance to assisting the informal sector, although this is not a universal phenomenon yet.

### **Popular Settlements**

Many Governments have begun to provide some of the basic services in popular settlements. These include roads, pathways, water supply, drainage, public toilets and street-lights. There are good examples of such improvements having beneficial impact on the environment such

as the Kamung Improvement Programme in Indonesia and similar programmes in Manila, Lusaka, Madras, and a number of South American cities. But many of these programmes do not improve land tenure conditions. Infrastructure improvement alone may not be enough to induce people to invest in housing and improving their environment. Where security of tenure is assured, house improvements have taken place. This has happened in Karachi and in Hyderabad. But there are many examples of deterioration of conditions in the absence of security of tenure. On the other hand there are isolated examples of security of tenure resulting in default in lease payments (Karachi) and obstacles in introducing infrastructure (Colombo). While secure tenure is desirable, this alone may not be enough. It is evident that the economic status of the settler would have a bearing on his capacity to consolidate his housing.

Generally, Governments have been reluctant to take progressive policy decisions to confer land titles on settlers in popular settlements. Where such decisions have been taken, the processes of granting title have been slow and beset with obstacles. These have to do with acquisition of land, determination of ownership, survey and demarcation, pricing policy and bureaucratic delay and disinterest.

### Sites and Services

Many Governments are now experimenting with providing land for low-income groups in sites-and-services projects. In line with the growing recognition of the ability of people to house themselves, amply demonstrated in informal settlements. Governments have been experimenting in the past 15 years with a variety of sites-and-services projects. Such projects provide sites with basic infrastructure like water, sanitation and access for self-help building by the people themselves. Sometimes utility walls or core houses are provided. World bank and other funding agencies have been assisting such projects. Very often full cost recovery is aimed at. Cross subsidies are built into the projects. The objective was replication on a large scale. The experience of cost recovery has been mixed. But the scale of these operations has fallen far short of the expectations. Standards have also been high and there has been a persistent struggle to lower standards so as to make the sites affordable by low-income groups. But the major problems that sites-and-services projects appear to be facing are:

- a) availability of suitable land for taking up a larger number of schemes;
- b) financial constraints of Governments and local authorities;
- c) managerial inadequacies of implementing agencies, often accustomed to different types of operations;
- d) absence of an appropriate housing finance market to respond to the needs of new settlers.

## Relocation

Relocation of squatters, apart from its political implications and social costs, has been, by and large, a failure. And for good reasons. Increased cost of transportation has made distant locations very unattractive. Serious dislocation of the economic activities of the settlers takes place resulting in a fall in incomes. There have been major experiments in Dacca and Delhi in 1975-76. The total impact of these mass relocations has to be carefully analysed. By and large it is seen that in the major cities of the developing world the housing of the poor is located farthest away from their places of work, while the rich who can afford travel time and transport cost are nearer to their work.

## Public Transportation

This suggests the possibility, therefore, that an efficient and cheap public transportation system could offset problems of land shortage at the right locations and of rising land prices. This would depend, obviously, on a number of factors including resources, both financial and managerial. But considering that the poor in many cities are being pushed farther and farther away from the central areas, the importance of efficient and affordable transportation cannot be overemphasized.

## General Picture

The general picture that emerges from a quick survey of developing countries is as follows:

- a) there is an increasing pressure to conserve agricultural land;
- b) fringe and marginal lands for informal settlements are fast decreasing;
- c) increasing costs of transport make settlement in distant locations difficult;
- d) non-commercial processes for housing are disappearing;
- e) the land market is becoming increasingly commercialized. Land developers and corporations increasingly dominate the scene - speculation is rampant;
- f) land prices are on the increase;
- g) there is increasing pressure to evict low-income settlers from land at attractive locations;
- h) the older informal processes are under great pressure.

## Manner of Disposal

The other two important aspects of land disposal in the context of housing the poor are the manner of disposal of land and the nature of tenure. Land at the disposal of public agencies could be sold at market prices, sold at less than market prices, allocated at nominal prices or allocated free of charge. It goes without saying that a mix of these methods would be used in sites-and-services and slum upgrading projects to make house sites affordable to the poor while offsetting subsidies by higher prices for higher uses. It would also be reasonable to assume that land acquired for housing would be appropriately priced for all income groups in keeping with the objectives of the programme. Unfortunately this has not been the case everywhere. Public agencies have tended to behave like private developers, avoiding supposedly "losing" propositions, auctioning land in the open market and generally contributing to the increase in land prices.

## Tenure

On the tenure question there have been a number of patterns followed. In Burma, parts of Africa and some parts of India land is commonly held and settlers only have a lease or occupancy rights. Leasehold is a very common form of tenure, particularly where public agencies have been allocating land. This is practised in Sweden, Australia, Finland, Kenya and in new developments in Indian cities, including New Delhi. The arguments in favour of leasehold are a) better control of land use in line with the objectives of the lease; b) right of the lessor to resume the land or portion thereof for important public purposes without compensation; c) appropriating to the public exchequer the increasing values of the land by increasing the cost of the lease and taxing a portion of the enhanced value at the time of sale or transfer. But the arguments against leasehold as a form of tenure pertain to excessive restrictions that impede land transactions and land development thus distorting the land market. Leasehold also requires a high level of managerial competence.

A brief overview of land disposal systems in a few countries, based on the monographs available, would help in stimulating discussion and arriving at appropriate recommendations.

In Denmark, municipalities actively participate in town development. As per a 1969 law all land on sale should be first offered to the Municipality. Non-profit organizations are allocated land by the Municipalities for housing the poor. Rentals of the poor are also subsidized by Government.

In Finland too, the municipalities play a very active role. Most land is developed and disposed of for housing by the municipalities. Most of the land is sold, but about 30 per cent (including most of Helsinki) is leased. There are conditions attached to sales and leases, mainly pertain-

ing to resale or transfer and use within a stipulated period. Land is either sold at market value, at cost price (i.e. no profit, no loss) or at a discretion price depending on the purpose. Leasehold is found to be useful to a) control development; b) monitor prices; c) control prices.

In Hungary, an increased shift is reported from council housing to private housing in the last 20 years. The number of developed sites is less and less. Prices have been going up. Hence there is a greater need for public intervention. Since 1977 a new type of tenure called "long-term land tenure" has been introduced. It is something between sale and leasehold.

Informal processes play a dominant role in most Indian cities in the matter of land for housing the poor. There is a general recognition of the need to upgrade squatter settlements and regularize unauthorized subdivisions. Grant of security of tenure has been commended by the Central Government to the State Governments. A few States have accepted the principle of secure titles in squatter upgrading schemes. Implementation has been slow, so far confined to specific projects in major cities like Madras, Kampur and Hyderabad. In land development and disposal programmes generally, including slums and sites and services, long term leases are given. These leases state the minimum conditions pertaining to use, construction within a specified period and intimation to the lessor on sale or transfer. However, there is a fair amount of freehold sale of land as well.

Delhi is an excellent case study of land acquisition, development and disposal. It certainly represents one of the largest land acquisition efforts for urban development in recent times. It is also unique for the reason that a) almost all urbanizable land in New Delhi was proposed for acquisition, giving the development authority a monopolistic position in the market; and b) almost the entire acquisition and development was proposed to be done by a single agency. From 1960 onwards 68,000 acres were notified for acquisition. 45,000 acres have been taken over to date. Of this, 13,600 acres have been developed or are under development for housing. Apart from this, approximately 4,200 acres have been used for the massive squatter relocation scheme of 1975-1976. About 4,500 acres are earmarked for group housing (co-operatives), mainly for middle and high-income persons, most of which is still to be developed. The net addition to housing stock since the establishment of the Delhi Development Authority is 85,000 houses, more than 50 per cent which are for the higher income groups.

The leasehold system in Delhi is also unique in that it is hedged with very stringent conditions covering transfer, sale, sharing of incremental value, land use, building regulations and the like. The result has been that while site development and market operations have been severely hampered, a flourishing parallel market prevails in which ingenious legal instruments have been devised to circumvent the rules, and transfers take place freely resulting in loss of Government revenue and offering ample scope for corruption and harassment.

The pricing policy of the Delhi Development Authority has also been shortsighted in many ways. Generally house sites have been priced very high. Even the so called pre-determined rate has no relationship with the affordability of low and middle-income groups. Quite a sizeable extent of land has been auctioned at exorbitant rates. Further, densities have been low and very large tracts have been reserved for green areas.

In Kenya, land is mostly on lease. Government land is usually alienated on nominal value for housing purposes. The cost is much lower than the market value. For example, 0.2 hectares could be allocated for 50,000 Kenyan shillings in Nairobi while the market value could be anywhere in the region of 500,000 shillings. Leases are usually for 99 years with the usual conditions regarding use and transfer.

In Norway land is dealt with almost entirely by the municipalities. Since 1960, due to rapidly rising prices, a new policy was enunciated giving municipalities a much bigger role in land development and disposal. As in the rest of the Nordic region urban land is covered by detailed master plans which are strictly enforced. The objectives of the new policy were a) to increase housing production from 25,000 - 30,000 per year to 40,000 per year; b) to enable municipalities to supply two-thirds of the required land for housing, and c) to build up a land reserve for a future period of 10 years.

An interesting feature in Norway is that municipalities have been able to exercise considerable control on land use, disposal and price. This has been achieved through conditions of land allocation as well as by land development through non-profit organizations sponsored by the municipalities. There is a fair amount of subdivision of large residential plots as well as housing development by large landowners, but even this is closely regulated and controlled. The pricing policy is progressive. Prices have been, comparatively, kept in check by these measures. Further reforms are in the offing.

Sri Lanka, in recent times, has launched a series of measures of land reform, both in respect of agricultural land as well as urban land. In the rural areas large numbers have been settled in colonization schemes and many thousands of encroachers on Government lands have been regularized. The land and housing policy in Colombo had four aims: a) to maintain the status quo in use rights, favouring tenants over landlords, b) to limit money income from residential property, c) to reallocate resources from luxury to low-income housing, d) to increase the production of houses.

The National Housing Development Authority has been acquiring, developing and disposing of land in rural and urban areas (approximately 5,000 and 400 acres respectively to date). It has a stock of land in reserve, 100 acres in urban areas and 700 acres in rural areas. Recently prime land in Colombo has been leased to foreign and local investors for urban development. A Slum and Shanty Improvement Programme has also been taken up on a restricted scale to ultimately cover 67,000 families or 400,000 people.

The Government have accepted the principle of leasehold rights to slum and shanty dwellers. Sites-and-services projects have still to be taken up in Sri Lanka.

In the United Kingdom there is an elaborate formal system of structure plans and local plans which prescribe land uses, among other things, and are strictly enforced. The local bodies play an important role in housing for the low-income groups. As much as 32 per cent of the UK's housing stock is publicly owned; 55 per cent is owner occupied and 13 per cent is rented to tenants. The policy is to encourage people to own their homes.

In order to help low-income people to own their homes, low-cost housing is encouraged by:

- a) the release to private builders of vacant land in public ownership;
- b) the building of "starter homes", i e lower priced new houses;
- c) building for sale by local bodies in partnership with private developers;
- d) improvement by local authorities and housing associations of existing housing for resale;
- e) shared ownership schemes;
- f) local authorities guarantee of building society mortgages to assist home ownership.

## Theme II: Supplement

### Appropriate Standards

The need for reviewing existing standards in order to make them appropriate to the needs of low-income people would form part of the discussion on land disposal.

Standards for subdivision can be adjusted to meet the needs of the poor. This has been done in many sites-and-services projects. On a city-wide scale it has been done in the Philippines and in Madras.

Infrastructure standards which can be upgraded over time can also be established. Unserviced sites have been provided in Port Sudan which could be serviced gradually. Standards for subdivision development which are upgradable have been introduced in Colombia.

New infrastructure technology can be introduced to reduce site development costs, e g low-cost sanitation.

Performance standards can be established for private sector delivery of serviced sites and housing units; granting of building permits can be coupled with conditions for the production of serviced sites and housing units for the low-income groups. Similarly, increased floor-area ratios can be granted conditional to the production of a specified number of sites/units for a low-income group.

### Co-operatives

Co-ops have played a pioneering role in important sectors such as agriculture, animal husbandry and consumer goods marketing. They are also playing an important role in land development and housing for middle and low-income groups in some countries. This is particularly true in matters like land acquisition, credit, construction management and maintenance.

There is no reason why co-ops of low-income people cannot organize themselves for these tasks on a much larger scale. Not only would they be able to tackle these problems more effectively, they could also improve their bargaining power through collective effort. There could be variations of co-operative forms; there could be associations, informal groups or social organizations. Co-operative effort could often be the solution to problems of exploitation and equity.

### **Harnessing People's Energies**

This comes up in every discussion on land and housing for the poor. It is a fact that when you are dealing with a large number of people who are economically weak, not highly educated or skilled, who have certain social and cultural traditions, participation and self help become critical elements in the programme. Almost universally it is found that the level of acceptance and satisfaction is proportionate to the level of personal participation and involvement in the programme. This itself could have implications for cost recovery and proper maintenance of assets. Apart from this, schemes like slum upgrading could hardly proceed without full co-operation of the residents. And so whether it be land development, infrastructure, home construction, civic and social amenities, operation and maintenance, health and education or collective economic activity, the participation of people in poor communities is important. Often it is critical to the success of the programme. In this field, non-Government organizations have an important role to play.

# Theme Paper III

## Land Registration Systems

*by Jo Henssen*

### Background

Major policy interventions in land acquisition and disposal depend upon the development of a workable system of land registration. What sets most of the developing countries apart is the lack of any conscious effort in this direction. The lack of clarity in land ownership titles, often the sheer difficulty involved in determining who the land owners are, delay or prevent urban land reforms and development even if the political will to carry out reforms is at hand. Nor can private land market transactions work satisfactorily if clear titles or deeds to land do not exist.

For example, in India, there are several public agencies with a stake in landed property - some for fiscal reasons, others for the regulation of land use, and still others to ensure compliance with legal requirements. Each of these agencies operates within its respective functional framework, and the information generated remains fragmentary. No clear perspective of the overall situation is made available.

Sri Lanka has a system of land registration which simply records transactions made through the intermediary of a public notary. Title is not verified and there are other deficiencies. An attempt was made to carry out a systematic cadastral survey in certain selected areas but proved to be unsatisfactory and was abandoned.

Kenya has attempted to encourage development by granting individual titles, and has set up a system of administrative procedures to resolve land claims. There are, at present, five land registration systems in effect, each of them designed to simplify its predecessor. The result is unnecessary complication. An attempt is, however, being made to establish a decentralized system which will gradually replace the others.

A difficulty which may occur in developing countries is that land registration systems are not always welcomed by the authorities, it is an expense, and immediate tangible and quantifiable results are not forthcoming - only in the long run can we expect to see positive benefits. There may even be direct opposition, perhaps because of mistrust from tribal or ethnic groups who fear that customary law will be altered, or from powerful individuals or families who prefer that land ownership remains anonymous.

### **What is »Land Registration«?**

Land registration, including cadastral registration, is the systematic, methodical, clearly laid out Government registration of all real estate situated in a definable administrative area. The information that is registered usually concerns established facts and/or consequences, and descriptive data relating to the nature of the real estate such as location, size, use etc.

The basic elements of a land registration system are:

1. a brief, simple, unambiguous identification of the real estate, shown on a large-scale map made on the strength of a surveying operation;
2. descriptive registers containing the data associated with legal status and land use, as well as data pertaining to the nature of the real estate.

The identification must be the same; the map and register will therefore form a unit.

### **The Reasons for Land Registration**

A properly set-up and maintained land registration system provides security and clarity with respect to the legal status of the land. Greater security should result in the long run in the improvement of property, thus contributing to the growth and economic development of the country concerned.

Land registration will reduce the number of land disputes, usually the major source of litigation in the courts of developing countries.

An equitable and just collection of taxes is much more likely given a clear identification of land ownership in the land registration, or to be more specific, cadastral registration system. Tax revenue derived from property is often a major source of income for developing countries.

Perhaps most important, the land registration system is the depository of the primary data required to carry out undertakings of great potential importance for developing countries, for example, urban and regional planning, land consolidation and redistribution, the granting of tenure, and the gathering and compilation of statistics.

To sum up, there can be no reforms without instruments to work with. A land registration system is just such a basic instrument, one that will greatly facilitate all Government policy which has as its goal the improvement of the land situation of the poor.

### **Land Registration and Customary Tenure**

It is sometimes feared that registration of the rights to the land might lead to abolition of unwritten law, also referred to as customary law, applicable to a given

group of people or specific area. Registration does not make any change, at least no essential change, in the content of such law. The introduction of land registration does present an opportunity, however, to eliminate in an acceptable manner any undesirable elements that might be associated with rights and rules originating in customary law.

### Legislation

For a land registration system to have the envisaged legal force and desired effect, it will be necessary to lay down peremptory and clear rules binding all parties, including the Government and all public officials responsible for the operation and maintenance of the system. In addition, land registration should be a matter of public record. Legal acts or consequences regarding real estate must be published.

When introducing a registration system it must invariably be ascertained what regulations are already in force. This may sound self-evident but is in fact frequently overlooked. A ready-made system from abroad should probably not be introduced, because it is important, and unavoidable, that necessary allowances be made for the social, political, religious, financial and economic circumstances to be found in the country in question.

Legal regulations should indicate:

- a) that land registration exists and what it contains;
- b) who takes care of and is responsible for the system;
- c) when, where and how it was set up, as well as what the procedures are for lodging objections and appeals;
- d) to what extent the specific data processed in the system possesses legal force; and
- e) how and when the updating must be effected.

The work required for a sound land registration system is usually also accompanied by attempts to achieve better land distribution or land consolidation. In various developing countries this combination of setting up a land registration system and bringing about land improvement or land consolidation is clearly expressed in the fact that the appropriate schemes have been incorporated into a single law.

### Maintenance

A land registration system will be of limited value unless it is properly maintained, that is, kept up to date. Some form of legal inducement will probably be necessary to ensure that all essential information concerning alterations, of all kinds, is promptly supplied to the registration system.

What is important is that a registration system be reliable; to be reliable it must be maintained on a continuous basis. Unfortunately many developing countries have established cadastral registration but have seen its usefulness decline as it is not properly kept up. Any system once established will not maintain itself without the care and attention of qualified staff, which in turn places demands upon training and education.

### Organization

In the developing countries the success of setting up and maintaining a land registration system depends upon adequate publication of information, training and organization. An aspect of no little interest is the question of which administrative body should be responsible for the system. No general formula is available to answer this question; instead national and local conditions must be allowed to determine what is best in each country.

Some institution or organization may already exist which performs some of the duties associated with land and cadastral registration; or there may be several such organizations or agencies, perhaps operating under open or concealed conditions of rivalry, responsible for the maintenance of some specific function of registration. Fragmentation of efforts is generally counter-productive, besides being wasteful. If it is nevertheless necessary to maintain multiple agencies then well-defined channels of co-ordination must be established - and maintained. Preferably some agency would be in charge of overall co-ordination.

There is no general necessity for the land registration system to be a function of central Government, although this is usually the case. In a nation consisting of several ethnic groups, each living in their own territory according to their own customary law, it is conceivable to set up a regional system of land registration - legal arrangements could be then adjusted thereafter.

Whatever national solution is selected, the agencies or institutions which furnish and process the data that make up the system must establish co-operative operational procedures, if land registration is to work. How well it works will depend upon the people who set it up and maintain it.

Finally, registration of real rights to land is usually associated with a political system that recognizes private property. This does not however warrant the conclusion that such a system would be superfluous in countries, organized along different lines. A systematic, methodical, clearly laid out inventory of land data is essential for land reform, town and country planning, and is important as well for economic planning.

## The Motor-Function

It is desirable that the agency responsible for overall co-ordination generates an understanding of land registration among other Government agencies, explaining its function and pointing out the possibilities the system can offer in support of Government sponsored or directed land-related projects. The public must also be kept informed of the advantages to be derived from land registration and encouraged to co-operate. This generative process, or motor-function, is important if the information collected through land registration is to be put to productive use. A land registration system need not be a mere depository of data. Instead, if managed competently and energetically, it would be a potential source of great public benefit.

## Training

Training requirements are so varied from country to country that little of use can be said of a general nature. Nevertheless, there are some demands for training, common to developing nations to which international bodies and countries having technical assistance programmes could address their attention, for example:

First of all, high-level policy-makers in developing countries could require short, intensive, training in the fundamental aspects of registration systems, particularly when a country is about to initiate a registration programme.

Secondly, high-level administrative and professional staff could benefit by observation of cadastral programmes in effective operation in other countries in order to adapt procedures and techniques to their own local circumstances.

Thirdly, professional personnel should also have the opportunity to receive mid-career training for the purpose of broadening their outlook and keeping up-to-date on modern developments in their fields by means of periodic seminars in particular disciplines.

Finally, the public at large must, of course, be reached through mass media. Such information programmes are particularly important in countries where customary rights prevail or where a segment of the population fears that land registration threatens its property rights. While simple in concept, these information programmes are frequently exceedingly difficult to administer and require knowledge of mass media techniques.

## Education

Although there exists a vast amount of experience of land registration and cadastral systems, partly in the form of publications, this knowledge is not adequately used

due to a lack of communication. For example, no comprehensive bibliography has been compiled. The achievements of various countries are often inadequately documented.

In this context, it would be desirable if the international community would at least encourage and assist in the:

- a) establishment of a systematic collection of published and unpublished information on legal, administrative and technical aspects of land registration and cadastral systems relevant for developing countries;
- b) promotion of a systematic and critical study of the available information to provide possible answers on particular questions related to the establishment, improvement and maintenance of land registration and cadastral systems; and
- c) promotion of an adequate distribution of knowledge concerning the above by special publications, the organization of seminars and other appropriate means.

#### **Some Suggestion Concerning the Establishment of a Simple Land Registration System**

1. Determine, right from the start, the purpose (or purposes) the land or cadastral registration system will serve. There are a number of benefits to be derived from registration and if goals are clearly stated and understood then chances of success will be enhanced.
2. Decide which Government agency is to be responsible. Land registration is a matter of interest to all, therefore, one of the more important should be put in charge. Although land registration is usually assigned to central Government, some form of regional division may in some circumstances be preferable.
3. Seek out other public agencies with an interest in, or who may be already engaged in, land registration in some form (or who conduct related activities) and strive to establish an effective co-operation. Avoid rivalry and duplication of effort. Useful data may already be available in some public institution - if so, collect and assemble.
4. Appoint a small staff of competent professionals who can maintain an overall grasp of the entire registration system. These experts are to have a "motor-function", i.e. they are to stimulate relevant activities, communicate with other agencies and institutions who may be involved in the registration process, and organize educational programmes and on-the-job training. Land registration will not achieve the desired result if information is not made available to policy-makers, officials and administrators of all levels.
5. Set up appropriate legislation. Anything as important as a land registration system will require a clear legal basis. Make allowances for and co-ordinate with existing legislation. All new legislation must be kept simple, especially when it concerns the legal procedures to be followed. The rules that govern any alteration in the

legal situation of the plot must be clearly stated. The procedure of appeal must be kept simple. Layman jurisdiction is advisable (it would be preferable if all lawsuits originating in land disputes in any particular region or district could be heard by a single court).

6. Keep the public informed on the purpose of land registration. To be successful, a land registration system must enjoy popular support. Suspicion of the motives for registration, if accompanied by resistance to the collection of necessary data in the field, may delay or possibly prevent the implementation of urgent land improvement schemes and reforms. To ensure the co-operation of the people, the land registration system when established should erect no obstacles to public access; the system should be open to all as far as is practicable.

7. Devise simple ways of collecting data. Simplify all mapping and registration procedures for houses and plots in unplanned settlements and for sites-and-services programmes. Remove legal impediments that prevent the use of simple methods. Surveying procedures should be designed to ensure finality and maximum speed compatible with accuracy. The choice of surveying methods to be used should be based upon a careful analysis of existing conditions and possibilities. Some legal data may already be available. If not, all interested parties must be informed. Not only must land titles be investigated in the field, but also all non-visible boundaries (general boundaries).

8. Furnish the register with information on proprietors or underlying rightful claimants, mortgages, parcel indication, plot size, location, superficial contents (buildings or other structures), assessed value of the parcel, taxation data, and any restrictions applying to the plot - these are the basic elements, others could be added later. The accompanying maps should indicate parcel boundaries, parcel identification, any structures and some of the more important topographical details. This data will assist land-use control, land division, the compilation of land-price statistics, the identification of private and State land, and the classification of land available for housing.

9. Establish a reliable geodetic network to facilitate future improvements and additions to the mapping system. Aerial photography should be used for map-making. Photo-maps or line maps can be made from enlarged and/or rectified aerial photographs. The maps compiled may also be used to illustrate objects of regional importance such as the location of pipelines, telephone cables, power lines and other utility networks.

10. Finally, it must be kept in mind that land registration is not an end in itself, but a necessary prerequisite for social and economic development. The costs may be high, it is true, but should in the long run be more than recompensed.

# Theme Paper IV

## Institutions, Research and Education

*by Saad Yahya*

The type of institution that can deal effectively with the land management problems associated with housing the urban poor need not necessarily be specialised. In fact, specialised institutions could well have the opposite effect, by perpetuating and institutionalising the plight of the poor. It is necessary that such institutions have a wider view and concern themselves with as broad a spectrum of society as possible. They should also work with less well organised groups. Only in this way can nationals avoid having a large number of highly specialised institutions competing for the same resources and purporting to serve the same community needs.

Organisations that concern themselves with land management would usually concentrate on one or more of the following aspects as their main forms of activity:

- A. Tenure and the distribution of land rights, including the setting of limits as to who can own how much land and where. Ownership rights need to be documented in a systematic manner. At the same time many countries restrict the ownership of property by aliens, while others place a limit on how much land nationals may own. In some, every national is entitled to a piece of land as a matter of right.
- B. Regulation and monitoring of market processes. Even in those countries where there is no land market as such, Governments have to monitor transfers of land rights. In free market countries, institutions exist for controlling transactions in land, and in some countries, the prices paid.
- C. Public Lands. The management of State land for the benefit of the State as well as of the people, normally calls for a well-organised institution. In many countries this function is considered so important that it is entrusted to the Head of State.
- D. Development planning and control. An institutional mechanism that prepares long-term plans for land development often combines this function with the regulation of the manner in which individuals develop their land. That is, institutions that deal with land use controls, zoning, building control and subdivision control play an important part in making land available for housing the urban poor.
- E. Technical standards. These are institutions that prescribe the technical standards for demarcating and mapping of land, for subdivision, for infrastructure and building. They would include Government departments, local authorities and professional associations.

F. Fiscal matters. Specific institutions exist in some countries to administer and collect property taxes and service charges. Their importance derives not only from the amount of revenues they can raise but also the large quantities of data on land ownership and land characteristics that they collect and maintain. They also influence the rate at which vacant land is developed.

Within the above six categories of institution we find varying degrees of affiliation to or autonomy from Governments varying from Government department to semi-public and private organisations.

### **Government Departments**

The provision of land for housing the urban poor would in most countries cut across inter-Ministerial or inter-departmental boundaries because it is a matter which involves a wide range of Governmental activities including land acquisition and its servicing, subdivision, registration and taxation; also settlement planning, legislation, housing programme formulation, resettlement and community development. There is no specific model therefore that countries may follow. However, there are some key Ministries or Government departments which are universally involved. The Ministries of Agriculture, Interior, Justice, Local Government, Land, Housing, Physical Planning, and Urban Development are usually involved. For example in Finland planning and building policies are the responsibility of the Ministry of Interior while land legislation is dealt with by the Ministry of Justice and cadastral surveying and countryside preservation by the Ministry of Agriculture. In India there is a hierarchy of institutions at the Federal, State and Municipal levels. In Denmark we find that the National Agency for Physical Planning in the Ministry of Environment, and the Cadastral Directorate and Land Readjustment Department, both in the Ministry of Agriculture, are the most important agencies.

Whereas housing, land administration and building could co-exist in one Ministry, this is not a prerequisite for success. Inter-departmental co-operation is possible whether or not departments are in the same Ministry. The critical ingredient is capable leadership and a willingness to serve in the national interest. We are assuming of course that the respective departments are adequately endowed with the requisite resources, especially manpower, equipment, working facilities, material supplies and transport. All these inputs are scarce, especially in the developing countries, and the capacity of a department to deal effectively with problems depends to a large extent on their availability. We shall discuss in greater detail later the range of problems experienced by Government departments.

The departments mentioned above as existing at the national level would in many countries be duplicated at the regional and local levels.

### Specialised Agencies

The acquisition, preparation and distribution of land for housing development need not be confined to Government departments or land development agencies. There are many examples of specialised agencies in specific sectors such as housing, transportation, industry, water, agro-industry or tourism which make land available for housing and human settlements as a subsidiary activity. For instance the National Housing Authority prepares land for settlement by low-income families in Manila and other towns in the Philippines. In the Gambia the tourism authorities have reserved large areas of ocean-front land for future development of tourist facilities, but some of this land is available for house construction. Agro-industrial complexes in many parts of Africa implement land development schemes involving the servicing of land for employees and producer co-operatives in concentrated villages. Industrialisation programmes can be synchronised with land preparation so that land is released for housing development.

Although residential land development may not be a major priority of these specialised agencies, their projects turn out to be more successful because the economic base is wider and employment opportunities may be available to the beneficiaries.

### Single-Purpose Land Development Agencies

Land development agencies are used in some countries to:

- a) acquire land and create land reserves;
- b) prepare and service land for development;
- c) dispose of land using a variety of methods, e g by ballot, auction, tender, private sale and so on;
- d) undertake joint ventures with private developers;
- e) prepare land budgets and develop programmes;
- f) implement land readjustment schemes;
- g) advise Government on land policy;
- h) control land transactions and prices.

An example is the Lands Commission in Ghana. Such agencies need to have an adequate and competent staff and a large budget if they are to do their work properly. Although the intention may be that the institution should be financially self-supporting since serviced land can be sold at a profit, lack of capital usually means that intended and feasible programmes cannot be executed. It is difficult for such organisations to raise capital in the open market, and they have to depend on Government grants for working capital. They have to be extremely efficient and well run in order to compete with subdividers and land developers in the private sector.

## Semi-Public and Private Institutions

Semi-public agencies and parastatals are preferred by many Governments because of their autonomy and the resulting capacity to operate on commercial principles outside the restrictions imposed by State or municipal bureaucracy. The Urban Development Corporation of Jamaica, which is involved in land and real estate development of all types, including low-cost housing is a good example. The Delhi Development Authority is another.

Private institutions vary from the squatter or individual land owner with a hectare or less, to the large corporations and development companies capable of servicing sufficient land for whole neighbourhoods and townships. These private suppliers of urban land often feel constrained by official controls and regulations. Delays in granting approval and elaborate technical standards increase land costs. The other side of the coin is that the developers enjoy enormous profits. Therefore controls on the operations of private land developers have to be conducive to development rather than unduly restrictive. This is easier said than done since conflicting community interests usually result in heavy-handed methods being used by Governments and local authorities.

## Common Problems

Although each land management agency will have its own peculiar problems, varying according to its mission, size, resources and other considerations, there are a number of recurrent problems that are discernible cross-culturally. The major ones are:

A. Lack of policy guidance. Semi-public and parastatals find it extremely difficult to discharge their duties if there is no definite and unified policy guidance from the top levels of Government. A national housing and human settlements policy and a land policy are often seen as a prerequisite to effective operations, however circumstances are such in many countries that definite policies as such do not exist, nor does the capacity to make those policies. In fact, Governments themselves depend on the technical departments and parastatals for policy guidance.

B. Over-centralised decision making. In the third world countries all the major decisions tend to be taken in the capital city, where the top officials, competent manpower and available data are concentrated. Officials in the small towns and rural areas have very limited powers. Blueprints have to be sent to "Head Office" for approval or title deeds for signature. Another dimension in which decisions are over-centralised is that in many countries only the chief executive of the relevant department or agency can make certain decisions, some of them very minor. For instance there are many countries where only the Minister can allocate plots. This derives from the sensitivity of the land allocation process. There are cases where the Head of State himself has reserved the right to allocate land.

C. Inadequate planning and programming capability. Here we are interested in planning both in its physical sense and its managerial aspects. Land development is normally presumed to follow settlement or community planning. But conditions in the field seldom arrange themselves that way. Planning officials, especially in the developing countries, often have to sanction land subdivision and development in the absence of an overall development strategy or structure plan. The pace of urban growth may be so rapid that a community plan is outdated even before it is published. Within institutions themselves the nature of land management and development work ensures strong tendencies towards staff dissatisfaction, inter-departmental feuds and low morale unless highly competent leadership is available. That is, the way in which the institutions are managed is as important as the quality of professional work done; problems in one are reflected in the other.

D. Squatting. Premeditated measures and actions, probably arrived at after lengthy preparatory work and discussions, are often pre-empted by squatters. This is a fact of life to which land administrators in the third world have become accustomed.

E. Inadequate data sources. Whereas in the industrialised countries sophisticated tenure systems and complicated transactions may make it difficult to monitor the market, in the developing countries the sheer scarcity of up-to-date maps and information on settlement patterns, physical characteristics, land use, land tenure, market prices and a host of other indicators makes the work of land administrators that much more difficult. Cadastral information, though essential for most development purposes is the most difficult to come by. Those institutions that can collect and store data systematically are likely to be more effective.

F. Manpower. This is more likely to be a problem in the newly independent African countries. European countries, and some Asian countries like India and the Philippines have a surplus of qualified personnel. Within the African countries one finds intense competition for the few qualified personnel, with Government departments generally losing out to parastatals and the private sector.

G. Political interference. Land management functions such as land acquisition, plot allocations, zoning, assessment of land taxes and land readjustment can seldom be executed in a political vacuum. Officials sometimes find it hard to deal with pressures from landowners, tenants, squatters and community leaders. Each one of these groups forms a strong lobby in local politics and instances often arise where a viable, sound, desirable scheme has to be abandoned or modified because of a lack of consensus, or where the laws have to be bent to satisfy short-term political objectives. Officials working for local authorities tend to be more exposed than their counterparts in central Government or parastatals.

H. Custom and tradition. Where customary tenure is strongly entrenched and there are no written laws to accommodate it, conflicts are likely to arise which make land acquisi-

tion, planning, demarcation and similar activities rather difficult to execute. At the same time established institutions, by virtue of their very organisation and mode of operation, are ill-equipped to deal with the needs and aspirations of tribal peoples. This is witnessed not only in Africa, but also both in America and Australia.

J. Insufficient resources. We have mentioned the difficulties experienced by institutions through the lack of finance and manpower. Related facilities such as equipment and accommodation are also generally scarce.

K. Inter-agency conflicts and duplication. A strong semi-public agency, such as a national housing corporation, is always in danger of usurping some of the powers of its parent Ministry. Functions will inevitably overlap, and there may even be duplication. In some cases the parastatals may even be stronger and more influential in Government circles than the relevant Ministry. Duplication of effort often also arises between parastatals themselves e g between a housing authority and a land development authority. However in an effort to avoid duplication of effort and to co-ordinate the activities of different agencies one must be on the alert for the dangers of over-centralisation as already discussed above.

Where special problems arise it is common practice for Government to set up ad hoc institutions, such as committees of enquiry or presidential commissions to investigate a particular matter and report either to Government or to the legislature. Examples are the committee set up to study land prices in Norway in 1980, and India's Committee on Urban Land Policy (1963) and the Working Group on Urban Land Acquisition (1982).

### **Essential Features of Legislation**

The legislation that establishes a land development agency ought to satisfy the following criteria, and should be:

- a) genuinely responsive to legitimate community needs;
- b) related to a national land policy;
- c) specific in intention;
- d) precise in the definition of powers and duties;
- e) area specific, i e the area of jurisdiction needs to be spelled out;
- f) clear as to the financial powers and responsibilities e g the power to raise revenues and borrow money, to account for funds, and to submit audited accounts at specified intervals to a higher authority.

Legislation should also:

- g) enable Government to intervene under certain circumstances;
- h) avoid duplication of functions with other agencies;
- i) spell out how board members and chairman shall be appointed; what procedures are to be followed at meetings and so on;

- j) anticipate social and economic changes likely to occur in the foreseeable future.

Legislation may also identify specifically the section of the community to be served; for example it may stipulate that a certain proportion of plots to be distributed shall go to a certain income group or a particular minority group. Moreover public access to records and accounts should wherever possible be guaranteed.

### **Housing Co-operatives and Associations**

In 1980 housing co-operatives and associations accounted for 29 per cent and 16 per cent in Denmark and Norway respectively. In Kenya land development co-operatives and companies - which are essentially co-operatives although registered under the Companies Act - carry out most of the land subdivisions on the outskirts of the large towns.

Rising aspirations are a reason why relatively poor individuals mobilise resources to improve their environment by investing in improved roads, communal water supply schemes, street lighting and schools. The result is the emergence of alternative land development models outside the official processes. The voluntary collectivisation of land development efforts in the form of co-operatives, women's groups, tribal associations, savings groups and limited liability companies offers new possibilities for mobilising popular resources for land preparation, servicing and development. These groups usually use short-cuts and loopholes in procedures to effect quick development. They also facilitate self-help construction methods. Overheads are minimal, unlike the statutory housing corporations which consume a large proportion of the nation's resources in salaries and overheads. The co-operatives in East Africa and the "stools" found in Ghana have also accumulated a great deal of experience in managing land for their own as well as the tenants' benefit. Unfortunately Governments have been unable to find ways of channelling public funds into such communities without having to acquire the land. Ways need to be found of involving urban groups and developers in efforts to improve living conditions in Africa's slums.

### **Research, Education and Training**

Although land development agencies accumulate large volumes of data in the course of their work, much of this data has not been analysed and published. The reason is that the number of land administrators with research inclinations is very limited. There are even fewer academics and professional researchers interested in the subject. One can count on the fingers of one hand the number of journals devoted exclusively to land matters. Only a handful of research theses on this subject are completed every year in the world's universities. That is not to say that there is a lot of material being prepared and published in related subjects such as urban planning, land law, land surveying, agrarian reform and environmental impact analysis. In

fact the problem is that land is always conceived as part of something else and research efforts are directed towards solving problems in housing, urban development, environmental management, rural development, transportation and so on. This is in some respects an advantage since the research efforts are aimed at solving specific practical problems but it does divert attention from land itself as a subject of serious investigation and study.

There is a wide range of topics that could benefit from further research. The sheer task of fact finding, mapping and codifying the socio-economic characteristics of the urban poor and their habitat requires a major effort at the international level. The research techniques used ought to be relevant to the problem. That is, techniques employed in Europe and North America will not necessarily be appropriate in Africa and Asia. While the latest technology in remote sensing aerial photography or micro-computers opens up new opportunities for researchers, there are circumstances where the simplest technology is the most appropriate. Setting out a lot using a piece of string and a few pegs requires as much imagination as employing the most sophisticated theodolite that uses radar technology. A simple symbol or number can identify a property as effectively as mathematical co-ordinates. As societies and markets change, land tenure systems get out of date. They too need to be modernised. But researchers, policy makers and legislators are normally reluctant to tamper with well-tried methods. Land tenure researchers would do well to investigate new ways of holding land and in general pay more attention to new life-styles, today's economic realities and emerging real estate financing trends.

Other areas in which further research is needed include the mobilisation of savings for financing land development; land value patterns in various types of settlements; land market responses to national stresses and upheavals; how to deal with the black market in those countries where there is no legalised land market; the role of multinational banks, financial institutions, insurance companies and construction companies in land market operations in the third world; simplification of land transfer procedures, which are lengthy and expensive in many countries to the detriment of the poor; the protection of the interests of tribal peoples from the onslaught of urban expansion and commercial production. These are only some of the issues, picked more or less at random, which need to be better understood.

In the same way that the number of research institutions is extremely limited, so is the quantity of educational establishments specialising in the training of land administrators. In many countries such as Denmark, Norway, the United States and scores of developing countries there are no specialised professional training programmes for land administrators. Personnel are drawn from related professions such as law, urban planning, civil engineering, and architecture. Where training institutions do exist and land management (also called estate management) is a recognised professional discipline, the training method is usually based on developing problem-solving capabilities

using the analytical tools rooted in economics, law, technology, (especially building and engineering) and management science. Specialisations can be developed in valuation, estate management, housing, development, planning taxation, marketing and so on. A few countries, such as Britain, Ghana, Finland, Thailand and Australia offer such integrated programmes.

Where training facilities do exist they are invariably plagued by such problems as the difficulty of recruiting competent teaching staff; inadequate funds; paucity of relevant teaching material, especially appropriate textbooks and audio-visual aids; lack of support for research; inadequate equipment resulting from foreign exchange problems; and insufficient co-ordination between teaching institutions and the relevant Government Ministries. Moreover opportunities for field demonstration projects designed to give students some practical experience are rather limited. However, where there are well organised professional bodies, such as in Britain, Nigeria, Malaysia, Ghana and Kenya, it has been possible for the local professionals to assist teaching institutions with visiting lectureships, external examiners, and employing students during the vacations.

Co-operation between countries in education and research is absolutely essential if land administrators are to enhance professional competence and gain the recognition and respect they deserve. Regional networks of interested individuals and institutions ought to be established so as to assist those countries where no facilities exist at all.

# Annex D

# List of Participants

## Participants

ARADI, Béla

Dr, Legal Advisor, Department of Architecture and Urban Development, Ministry of Building and Urban Development

Hungary

AVIS, Martin

Department of Land Management and Development, Faculty of Urban and Regional Studies, University of Reading

United Kingdom

BOONYABANCHA, Somsook

Architect-planner, Center for Housing and Human Settlement Studies, National Housing Authority

Thailand

HENSSEN, Jo L G

Mr. Ir., Director of Juridical, Financial and Economic Affairs of the Service of Cadastre and Public Books of the Netherlands, Ministry of Housing, Physical Planning and Environment

The Netherlands

HYLAND, Bruce

Officer-in-Charge, Research and Development Branch, UN Centre for Human Settlements (Habitat)

UNCHS

LARSEN, Frits

Senior Planner, Ministry of the Environment, National Agency for Physical Planning

Denmark

MADAVO, Callisto E

Acting Assistant Director, Urban Development Department, International Bank for Reconstruction and Development

IBRD

MENEZES, Louis  
Joint Secretary, Ministry of Works and Housing, Government  
of India

India

MILLGÅRD, Olle  
Technical Manager, The National Land Survey of Sweden

Sweden

MUNRO, Ingrid  
Director General, Swedish Council for Building Research

Sweden

PEREZ ROJAS, Estrella Yolanda  
Centro Technico de la Vivienda y el Urbanismo, Ministerio  
de la Construcción de Cuba

Cuba

RIIS, Per Otto  
Senior Executive Officer, Housing Department, Ministry  
of Local Government and Labour

Norway

SAMUELS, Blossom  
Government Town Planner, Town Planning Department

Jamaica

SATTERTHWAITE, David  
Researcher, IIED - International Institute for Environment  
and Development

IIED

SIRIVARDANA, Susil  
Deputy General Manager (Rural Housing), National Housing  
Development Authority

Sri Lanka

SUBAGIO, Wahyudi  
Senior Official, Directorate General of Housing, Building,  
Planning and Urban Development, Ministry of Public Works

Indonesia

VIRTANEN, Pekka V  
Professor, Helsinki University of Technology, Department  
of Surveying

Finland

YAHYA, Saad  
Professor, Dean of Architecture, Design and Development,  
University of Nairobi

Kenya

ZAKHAROV, Alexandre  
Human Settlements Officer, UN Centre for Human Settlements  
(Habitat)

UNCHS

#### Observers

BERGHÄLL, Outi  
Researcher, The Finnish Ministry of the Interior, Planning  
and Building Department

Finland

MANSIKKA, Mikko  
Deputy Head of the Planning and Building Department, The  
Finnish Ministry of the Interior

Finland

NOBIS, Paula  
Head of Section, Department of Physical Planning, Ministry  
of Housing and Physical Planning

Sweden

#### Staff

GILLSTRÖM, Birthe

SHEPPARD, Birgitta

SHEPPARD, David

WESTERBERG, Inger

WINNBERG, Birgitta

# Annex E

# List of Document

## Country Monographs

<u>Country</u>	<u>Author</u>	<u>Number of pages</u>
Cuba	Perez Rojas, Estrella Yolanda, Ministerio de la Construcción de Cuba .....	11
Denmark	Larsen, Frits, National Agency for Physical Planning .....	7
Finland	Virtanen, Pekka, Helsinki Technical University Berghäll, Outi, Ministry of the Interior .....	13
Hungary	Aradi, Béla, Ministry of Building and Urban Development .....	16
India	Menezes, Louis, Ministry of Works and Housing .....	31
Indonesia	Subagio, Wahyudi, Directorate Gene- ral of Housing, Building, Planning and Urban Development, Ministry of Public Works .....	15
Jamaica	Samuels, Blossom, Town Planning De- partment .....	18
Kenya	Yahya, Saad S, Department of Land Development, University of Nairobi .....	15
Netherlands	Henssen, Jo L G, Netherland's Mi- nistry of Housing and Physical Planning .....	19
Norway	Riis, Per Otto, Ministry of Local Government and Labour .....	14
Sri Lanka	Sirivardana, Susil, National Hous- ing Development Authority .....	32
Sweden	Millgård, Olle, National Land Sur- vey of Sweden .....	10
Thailand	Boonyabancha, Somsook, Center for Housing and Human Settlement Studies, National Housing Authority .....	26
United Kingdom	Department of the Environment .....	14

## Other Documents

Land for Human Settlements: Review and Analysis of the Present situation. Report of the Executive Director (HS/C/6/3) .....	32
Land for Human Settlements: Recommendations for National and International Action. Report of the Executive Director (HS/C/6/3) .....	20
J L G Henssen The Requirements and Significance of a Land Registration System, including the Cadastre for Developing Countries .....	10
J L G Henssen Report of the Meeting of the Ad Hoc Group of Experts on Cadastral Surveying and Mapping, Tokyo, October 1973 Medium-scale and Large-scale Surveying and Mapping Cadastral Surveying and Mapping .....	24

Copies of the country monographs are available from the organizer:

Swedish Council for Building Research  
Sankt Göransgatan 66  
S-112 33 Stockholm  
Sweden

## Annex F

## Programme

Tällberg, 14-19 March, 1983

Monday, March 14

08.30	Departure for Tällberg from Hotel Amaranten
12.00	Lunch
14.15	Opening statement by Chairman, Ms I Munro
14.30	General discussion of seminar focus
15.15	Overview statement by B Hyland
16.00	Resumption of general discussion
17.00	Information on programme and procedures by Mr B Sheppard
18.30	Welcome dinner

Tuesday, March 15

09.00	Presentation on theme 4 (Institutional and educational requirements) by S Yahya and discussion
12.30	Lunch
14.00	Presentation on theme 1 (Public land acqui- sition methods) by D Satterthwaite and discussion
17.00	Closing announcements

Wednesday, March 16

09.00	Resumption of discussion on theme 4
11.00	Resumption of discussion on theme 1
12.30	Lunch
14.00	Presentation on theme 2 (Public land disposal methods) by L Menezes and discussion
17.00	Closing announcements

## Thursday, March 17

- |       |  |
|-------|--|
| 09.00 | Resumption of discussion on theme 2                              |
| 12.00 | Lunch  |
| 13.30 | Drafting session by rapporteurs                                  |
| 16.15 | Presentation on theme 3 (Land registration systems) by J Henssen |
| 17.30 | Closing announcements  |

## Friday, March 18

- |       |  |
|-------|--|
| 09.00 | Discussion on theme 3                        |
| 11.30 | Resumed discussion on theme 4                |
| 12.30 | Lunch  |
| 14.00 | Review and summing-up of seminar discussions |
| 15.30 | Closing announcements                        |

## Saturday, March 19

- |       |   |
|-------|---|
| 09.00 | Presentation of draft text for seminar report by Chairman, Ms I Munro |
| 12.00 | Lunch   |
| 14.30 | Departure for Stockholm   |

## Annex G

# Recommendations of the United Nations Seminar of Experts on Building Codes and Regulations in Developing Countries, 1980

### *Recommendation 1.*

(a) Many developing countries lack adequate legislation on construction and upgrading of the built environment. It is recognised that the formulation or revision of codes and regulations can be a time-consuming and expensive process which may extend over many years. Present codes and regulations are very often inconsistent with national goals for human settlements. Furthermore, in most developing countries they address the needs of a limited section of the population.

(b) GOVERNMENT SHOULD ENACT APPROPRIATE LEGISLATION AND BUILDING CODES AND REGULATIONS IN ORDER TO UPGRADE THE QUALITY OF HUMAN SETTLEMENTS.

(c) *The legislation, codes and regulations should:*

- (i) Be generally consistent with the goals and aims of national human settlement policies and be established by appropriate government bodies;
- (ii) Be substantively comprehensive and cover new construction, maintenance, improvement and upgrading of the built environment;
- (iii) Apply to all segments of the population;
- (iv) Address variations in climate and geography;
- (v) Include guidelines and examples of adequate technical solutions;
- (vi) Be appropriate to present needs, easily adaptable to future requirements and make optimum use of local resources and skills.

### *Recommendation 2.*

(a) Most developing countries have failed to supply services and housing commensurate with population growth. As a result the poor have constructed their own shelter in areas which do not satisfy the minimum requirements for safety and health. Since this environment is constructed without the permission or acknowledgement of Government, it lacks access to basic infrastructure and services. Further, this construction is undertaken outside the formal sector, and hence is deprived of the benefits of codes and regulations, technical advice and financial support.

(b) BUILDING CODES AND REGULATIONS SHOULD PLACE EMPHASIS ON MEETING THE BASIC NEEDS OF THE POOR IN RESPECT OF HUMAN SETTLEMENTS.

*(c) This implies that:*

- (i) Building codes and regulations be designed to make best use of the capability of the poor to build for themselves;
- (ii) Building codes and regulations reflect the needs of specific population groups such as new rural-urban migrants, children and the handicapped;
- (iii) Governments ensure that serviced and reasonably priced land and finance are available in a timely fashion.

### ***Recommendation 3.***

(a) The quality of life of the poor, whether living in rural or urban settlements, is demeaning. It is characterised by shelter which is often unfit for human habitation, inaccessible and impure water and the absence of minimal sanitation, transportation, education and health services. The incidence of disease, unemployment and illiteracy is extremely high and further distinguish the poor from the remainder of the population. Therefore, it is urgent that government policies attempt to reach as quickly as possible the largest number of the least advantaged in the society.

(b) GOVERNMENTS, IN ADDRESSING THE BASIC NEEDS OF THE POOR, SHOULD AIM TO ACHIEVE, WITHIN THE LIMITS OF AVAILABLE RESOURCES, OPTIMAL IMPROVEMENT FOR THE LARGEST NUMBER OF THE LEAST ADVANTAGED. THEREFORE, BUILDING CODES AND REGULATIONS SHOULD PROVIDE FOR A GRADUATED OR A STEP-BY-STEP IMPROVEMENT OF THE BUILT ENVIRONMENT.

*(c) This would include:*

- (i) The identification of the basic needs of the least advantaged, and the preparation of a programme which will incrementally improve the quality of their lives;
- (ii) The assignment of high priority by governments to the satisfaction of these needs;
- (iii) Assisting those in greatest need regardless of location;
- (iv) Distribution of improvements in human settlements in an equitable way giving a smaller quantum of basic improvements to the many poor rather than a larger quantum of improvement for the few;
- (v) Arranging for the provision of critical services by governments;
- (vi) Revising traditional methods and techniques for calculating benefits and costs;
- (vii) Fostering self-reliance which would include the use of self-help techniques and traditional forms of cooperation such as the extended family.

**Recommendation 4.**

(a) Unquestionably the poverty population desperately needs improvement in a number of areas. However, none are more important to the immediate improvement in the quality of life than the provision of clean water, sanitation and basic services.

(b) GOVERNMENTS IN IMPLEMENTING A GRADUATED OR STEP-BY-STEP IMPROVEMENT OF HUMAN SETTLEMENTS, SHOULD GIVE PRIORITY TO THE DEVELOPMENT OF BASIC INFRASTRUCTURE AND SERVICES.

(c) *Priority should be given to providing:*

- (i) Access to potable water;
- (ii) Hygienic and simple solutions such as pit-latrines to problems of waste disposal;
- (iii) Access roads and public transportation facilities;
- (iv) A sequence of levels in the step-by-step improvement of access and quality of infrastructure and shelter;
- (v) Appropriate building codes and regulations, but if this is not possible, then governments should establish technical guidelines, covering the initial infrastructure and service improvements.

**Recommendation 5.**

(a) The people themselves constitute the major resource for the improvement of their settlements. The timely provision of adequate shelter and infrastructure to the majority of the people cannot be accomplished without fully utilising self-help programmes and popular participation.

(b) BUILDING CODES AND REGULATIONS SHOULD FACILITATE AND ENCOURAGE SELF-HELP AND MUTUAL AID CONSTRUCTION, MAINTENANCE, IMPROVEMENT AND REHABILITATION, PARTICULARLY WITH REGARD TO SHELTER BUT ALSO WHERE APPROPRIATE WITH REGARD TO INFRASTRUCTURE AND SERVICES.

(c) *The codes and regulations should provide:*

- (i) Adequate guidelines or manuals for assisting habitants in the use of improved and reliable indigenous building materials and construction techniques;
- (ii) Adequate guidelines or manuals on maintenance, improvement and rehabilitation of shelter and infrastructure;
- (iii) Education and training programmes for local instructors to ensure the effectiveness of self-help activities.

**Recommendation 6.**

(a) Code contents can be adapted to new approaches which suit the needs of developing countries. Also, there are technical means for designing codes which would facilitate the graduated improvement of infrastructure and shelter. Technically simple and low-cost solutions are available and can be codified and used effectively by the poor.

**(b) BUILDING CODES AND REGULATIONS SHOULD SPECIFY PERFORMANCE REQUIREMENTS AND A FULL RANGE OF ADJUSTABLE TECHNICAL SOLUTIONS THAT MEET THOSE REQUIREMENTS.**

*(c) This may be achieved by:*

- (i) Identifying and developing indigenous materials, construction techniques and skills that can be used as alternative solutions provided they satisfy performance requirements;
- (ii) Providing simple criteria for testing and verifying the suitability of building materials and techniques that satisfy the performance requirements;
- (iii) Providing alternative technical methods that are economically feasible and which are based on locally available and easily used materials;
- (iv) Providing information on least-cost technical solutions that can be upgraded through time for roads, water supply, drainage and waste disposal;
- (v) Using improved materials and techniques, and demonstrating alternative technical solutions;
- (vi) Providing construction guidelines for alternative solutions that are concise, easy to understand, adapt and apply.

***Recommendation 7.***

(a) The formulation and implementation of a graduated or step-by-step approach requires the establishment of institutions which provide for the maximum contact between the people and the administrators of building codes and regulations.

**(b) GOVERNMENTS SHOULD ESTABLISH LOCAL OFFICES FOR THE ADMINISTRATION OF BUILDING CODES AND REGULATIONS.**

*(c) Particular attention should be paid to:*

- (i) Local conditions that require special considerations or approaches;
- (ii) Designating geographic areas of coverage and responsibility that are consistent with administrative capabilities and maximum public involvement;
- (iii) Ensuring that local offices receive resources appropriate to their role and the services provided, and that code administrators are publically accountable for their actions;
- (iv) Promoting innovative approaches to the traditional building industry and providing leadership, information and incentives for inhabitants to comply with a step-by-step approach, and ensuring that infringements are appropriately sanctioned;
- (v) Instituting simplified and streamlined procedures for the submission and approval of building proposals, and providing direct assistance in the preparation and processing of plans;
- (iv) The preparation and dissemination of prototype building plans for lower income groups and, whenever possible and appropriate, full scale models of houses should be provided to serve as examples of what is possible;

- (vii) Acceptance by governments of total responsibility for an outreach programme;
- (viii) Utilising research findings which are appropriate to local needs.

***Recommendation 8.***

(a) Ignorance of the objectives and requirements contained in codes and regulations contributes greatly to non-compliance, because the poor do not know what is expected of them. This problem is linked with illiteracy, lack of land tenure, and the estrangement of the poor from a country's formal institutions. However, in many countries the education and training of those concerned with building regulations are not geared to the needs of the poor.

(b) GOVERNMENTS SHOULD ESTABLISH EXTENSIVE PROGRAMMES FOR INFORMATION, EDUCATION AND TRAINING GEARED TO THE NEEDS OF THE POOR.

(c) *This may be achieved by:*

- (i) Deploying extension agents and technical instructors especially trained in codes, materials and building techniques who would operate out of local administrative offices;
- (ii) Ensuring that building codes and regulations are clear, concise, practical and intelligible to those sections of the population to which they apply;
- (iii) Establishing outreach multi-disciplinary teams comprising technicians, social workers and others associated with assisting inhabitants to implement codes and regulations and improve their life styles;
- (iv) Identification and training of local individuals in fundamental skills who would assist other residents in their respective upgrading and maintenance efforts;
- (v) Utilising graphics and models of alternative solutions to performance requirements for making improvements especially where illiteracy exists;
- (vi) Establishing in the curricula of primary and secondary schools instruction on improving the quality of life in low-income settlements, and introducing into the professional training of architects and engineers techniques for solving the shelter and infrastructure problems of the poor;
- (vii) Including in the requirements for professional qualification a knowledge of building for low-income populations;
- (viii) Simplifying the administration of building codes so that they can be clearly understood and followed by local builders, even if they do not possess formal education or specialised knowledge of construction.

***Recommendation 9.***

(a) Technical inputs in the formulation or revision of building codes and regulations, particularly those derived from research, can provide a scientific basis for judging the suitability of using indigenous materials and construction techniques. This analysis provides the reasons for introducing levels of improvement and innovative solutions to problems of substandard shelter and infrastructure.

(b) GOVERNMENTS SHOULD GIVE HIGH PRIORITY TO THE ESTABLISHMENT OF NATIONAL RESEARCH PROGRAMMES IN THE BUILDING FIELD AND PROVIDE THE NECESSARY RESOURCES FOR THE CONDUCT OF RESEARCH AND ITS SUBSEQUENT APPLICATION.

*(c) Priority should be given to research on the following:*

- (i) The modes of life and improvement of indigenous building materials and construction techniques, infrastructure, services and settlements design;
- (ii) The assessment of the actual physical condition of low-income settlements and the needs of the population;
- (iii) The systematic analysis of building materials and construction techniques, and the identification of factors that cause the deterioration of the built environment in order to improve the physical properties of building materials and guide the design and building process;
- (iv) The use and improvement of traditional building practices so that they may be adapted to the changing availability of resources, skills and technology;
- (v) The incremental improvement of shelter and infrastructure through the introduction of improved traditional techniques and innovative technologies, e.g. wall and roof coatings, waterless sanitation, water saving devices, energy use and conservation devices.

***Recommendation 10.***

(a) The adaptation of building codes and regulations to the actual needs and conditions of developing countries is a costly and time-consuming task. Moreover, in view of the magnitude of the financial, material and social implications of legislation relating to building, it is of crucial importance that codes and regulations be based on the best knowledge and experience available. Further development of international cooperation in this field will be of great assistance to governments in formulating, administering, enforcing and up-dating effective building codes and regulations.

(b) INFORMATION, EXPERIENCE AND RESEARCH RESULTS ON BUILDING CODES AND REGULATIONS AND ON RELATED PROBLEMS AND POLICIES SHOULD BE WIDELY SHARED THROUGH INTENSIFIED INTERNATIONAL COOPERATION WITHIN THE FRAMEWORK OF THE UNCHS, THE REGIONAL COMMISSIONS, NON-GOVERNMENTAL INTERNATIONAL ORGANISATIONS AND BILATERAL CONTACTS.

*(c) International cooperation should include:*

- (i) The formulation by UNCHS in cooperation with the Regional Commissions and ISO, of an internationally unified terminology for key definitions in the field of building codes, regulations and standards;
- (ii) The preparation of guidelines by UNCHS for constructing building codes applicable to developing countries;
- (iii) The systematic compilation and publication by UNCHS in cooperation with WHO, UNDRO, UNEP and other UN agencies and non-governmental organisations of information

on the special environmental conditions that produce unique codes and regulations, such as earthquakes, hurricanes, flooding, etc. which affect the performance of buildings and infrastructure;

(iv) The compilation and publication by UNCHS, in cooperation with the Regional Commissions, other UN agencies and non-governmental organisations, of a compendium or inventory of existing, proven and cost effective technical solutions to which reference could be made in building codes and regulations;

(v) The periodic exchange of information on building codes and regulations at the regional and sub-regional levels, including problems and policies relating to enforcement, administration, revision, unification, information and citizen participation;

(vi) The compilation and publication by CIB and other building research organisations of research reports on the »state of the art« with regard to the strength and durability of building materials including information on recommended test methods;

(vii) The promotion by UNCHS in cooperation with CIB and other building research organisations of intensified regional and sub-regional cooperation among research institutes, involved in work relevant to the development of effective building codes and regulations;

(viii) The promotion by UNCHS of technical assistance to developing countries on building codes and regulations, and also within the framework of the Plan of Action for Technical Cooperation Among Developing Countries (TCDC).



HS/CONF/83/5

United Nations Centre  
for Human Settlements  
(Habitat)

P O Box 300 30  
Nairobi, Kenya

D5:1983

ISBN 91-540-3905-3

Swedish Council for Building Research, Stockholm

Art No: 6702305

Distribution:

Svensk Byggtjänst  
Box 7853

S-10399 Stockholm  
Sweden

Approx. price: SEK 40